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SALUS POPULI SUPREMA LEX ESTO

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



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI
REGISTER

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June 1, 2022 June 15, 2022	July 1, 2022 July 15, 2022	July 31, 2022 July 31, 2022	August 30, 2022 August 30, 2022

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

HOW TO CITE RULES AND RSMO

RULES

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

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

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

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

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

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

Code and Register on the Internet

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

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

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

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

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

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

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

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 2220—State Board of Pharmacy
Chapter 2—General Rules**

EMERGENCY AMENDMENT

20 CSR 2220-2.725 Remote Data Entry. The Missouri Board of Pharmacy is amending subsection (1)(A).

PURPOSE: This emergency amendment removes geographic restrictions on remote data entry sites and allows Missouri licensed or registered pharmacy technicians and intern pharmacists to perform remote data entry from a site located in a U.S. state or territory.

EMERGENCY STATEMENT: On January 31, 2020, the U.S. Department of Health and Human Services (HHS) declared a public health emergency in response to the nationwide COVID-19 pandemic. The Governor of Missouri declared a similar State of Emergency on March 13, 2020, finding that COVID-19 poses a serious health risk for Missouri residents and visitors. Since that time, Missouri pharmacies have played a critical role in meeting the unprecedented demand for pharmacy services, including, administering COVID-19 vaccines, providing COVID-19 testing, dispensing medication, and other clinical services. Despite the unprecedented demand, Missouri pharmacies and hospitals have reported staffing remains at critical levels due to a nationally reported pharmacy technician shortage, and absences/work needs related to the COVID-19 pandemic. As a

result, the governor approved a statewide COVID-19 waiver of 20 CSR 2220-2.725 to allow Missouri pharmacies to utilize/hire staff to assist with remote data entry activities from a non-pharmacy location in Missouri or another state. The waiver allowed Missouri pharmacies to meet pharmacy demand and employee work needs due to quarantine/public health requirements. The governor's waiver expired on December 31, 2021; however, Missouri pharmacies have reported a critical need to continue use of pharmacy staff located outside of Missouri to ensure prompt dispensing and delivery of pharmacy patient services. A proposed amendment allowing the change was filed in November 2021 and published in the December 15, 2021, *Missouri Register*. In January 2022, licensees petitioned the board after the COVID-19 waiver expired to take emergency action to continue allowing pharmacy technicians and intern pharmacists to assist Missouri pharmacies with remote data entry activities from a non-Missouri location. As requested, emergency amendment mirrors the previous COVID-19 waiver and pending rule amendment, and allows Missouri licensed/registered pharmacy technicians and intern pharmacists to perform remote data entry activities from a site located in a U.S. state or territory. Missouri pharmacies have indicated the emergency amendment is needed to meet the unprecedented increased demand for pharmacy services due to the COVID-19 pandemic and related vaccine/testing. Accordingly, the board has determined this emergency amendment is needed to ensure prompt medication dispensing and prompt delivery of patient pharmacy services in Missouri during the pandemic. Absent an emergency amendment, Missouri citizens will likely experience a significant delay/interruption in critical pharmacy services, which will detrimentally impact the public safety, health, and welfare of Missouri citizens. As a result, the Missouri State Board of Pharmacy finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Missouri State Board of Pharmacy believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed January 21, 2022, becomes effective February 4, 2022, and expires June 1, 2022.

(1) Definitions.

(A) "Remote Data Entry Sites"—A remote site located in [Missouri] a U.S. state or territory that is operated by a Missouri licensed pharmacy and used by a Missouri licensed or registered pharmacy technician or intern pharmacist to electronically perform non-dispensing data entry functions, including, but not limited to, obtaining, entering, validating, or processing patient information or data.

AUTHORITY: sections 338.010, 338.035, and 338.140, RSMo Supp. [2019] 2021, and sections 338.013, [338.035,] and 338.280, RSMo 2016. Original rule filed Feb. 7, 2020, effective Aug. 30, 2020. Emergency rule filed June 5, 2020, effective June 19, 2020, expired Sept. 1, 2020. A proposed amendment covering this same material was published in the December 15, 2021, issue of the *Missouri Register*. Emergency amendment filed Jan. 21, 2022, effective Feb. 4, 2022, expires June 1, 2022.

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

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

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

EXECUTIVE ORDER
22-02

WHEREAS, I have been advised by the State Emergency Management Agency that the forecasted severe winter storm systems have the potential to cause damage associated with snow, freezing rain, sleet, ice, and low temperatures, impacting communities throughout the State of Missouri; and

WHEREAS, the severe winter storm systems reaching Missouri on February 1, 2022 and continuing at the time of this Order have created a condition of distress and hazard to the safety, welfare, and property of the people of the State of Missouri beyond the capabilities of some local jurisdictions and other established agencies; and

WHEREAS, the State of Missouri must continue to be proactive where the health and safety of its citizens are concerned; and

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

WHEREAS, an invocation of the provisions of Sections 44.100 and 44.110, RSMo, is required to ensure the safety and welfare of the people of Missouri and to activate the resources necessary to keep Missourians safe.

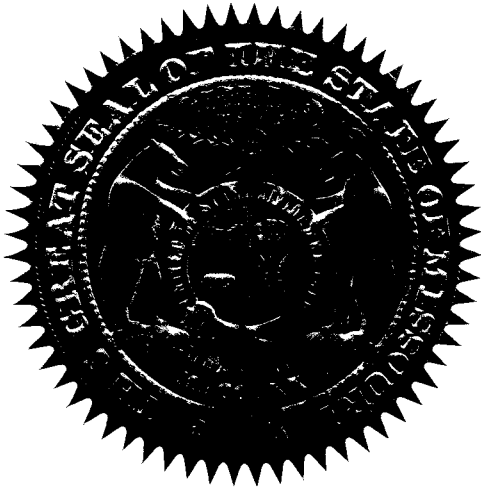
NOW, THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, including Sections 44.100 and 44.110, RSMo, do hereby declare that a State of Emergency exists in the State of Missouri and direct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

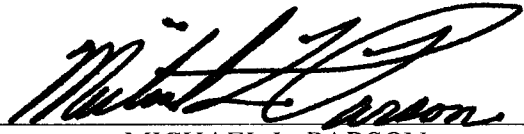
I further order, pursuant to Sections 41.480 and 41.690, RSMo, the Adjutant General of the State of Missouri, or his designee, to forthwith call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property,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

I further authorize state agencies to provide assistance as needed.


This Order shall terminate on March 3, 2022, unless extended in whole or in part.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 1st day of February, 2022.




MICHAEL L. PARSON
GOVERNOR

ATTEST:


JOHN R. ASHCROFT
SECRETARY OF STATE

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

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

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

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

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

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

storage] promptly inspected and the decks shall be stored in a primary or secondary storage area by at least (2) employees, one (1) of whom shall be from the table games department and the other from the security department. The primary card storage area shall be located in a secure place, the location and physical characteristics of which shall be approved by the commission. Secondary storage areas, if needed, shall be used for the storage of surplus cards. Cards maintained in secondary storage areas shall be transferred to the primary card storage area before being distributed to the pits or tables. All secondary storage areas shall be located in secure areas, the location and physical characteristics of which shall be approved by the commission.

(7) Prior to being placed into play, all decks shall be inspected by the dealer, and the entire inspection observed by a floor supervisor or above. Card inspection at the gaming table shall require each deck to either be sorted into sequence and into suit or processed through an automated shuffler or similar device capable of reading the card faces to ensure that all cards are in the deck. For decks that may be used more than once, the inspection shall also require the dealer to check the back of each card to ensure that it is not flawed, scratched, or marked in any way. Card inspection for games may be conducted at an alternate table in the same pit or at an alternate table in a closed pit. In *[this instance]* these instances, the floor supervisor or above shall notify surveillance and surveillance shall record on the surveillance shift log both the table number where the card inspection is conducted and the table number at which the cards are to be placed into play.

(12) At the end of the gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the licensee and approved by the commission, and at other times as may be necessary, the floor supervisor or above shall collect all used cards.

(A) These cards shall be counted down manually by the dealer or by an automated shuffler and placed in the original deck/multi-deck boxes. The time the decks were removed from the table and an indication as to whether or not the cards were handheld shall be recorded on the deck/multi-deck boxes. The boxes shall be placed in a sealed envelope or container. For games in which dealing procedures require cards to be dealt only once, the sealed envelopes or containers shall be easily distinguishable from those used for all other table games. The bags will be conspicuously labeled as containing single-use cards.

(14) At the end of each gaming day or, in the alternative, at least once each gaming day, as designated by the licensee in the internal controls and approved by the commission, and at other times as may be necessary, a *[pit manager]* table game supervisor or above shall collect all extra decks of cards. All extra decks with broken seals shall be placed in a sealed envelope or container, with a label attached to each envelope or container which identifies the date and time and is signed by the floor supervisor and the pit manager or above.

(15) At the end of the gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the licensee in the internal controls and approved by the commission, and at other times as may be necessary, a security officer shall collect all decks in the pit(s), including sealed decks, sealed envelopes or containers with damaged cards, decks used during the gaming day, and decks with broken seals. The collection shall be recorded on the Card and Dice Collection Log. All sealed decks shall be returned directly to the primary storage area *[or delivered directly to the card destruction room to be immediately cancelled or destroyed]*. The security officer shall return the envelopes or containers and the log to the card inspection room.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

PROPOSED AMENDMENT

11 CSR 45-5.184 Table Game Cards—Receipt, Storage, Inspections, and Removal from Use. The commission is amending sections (1), (7), (12), (14), (15), and (17).

PURPOSE: This amendment makes these rules consistent with other regulations, enables security to better identify handheld cards to ensure proper inspection, allows decks to be pre-inspected at an alternate table in a closed pit, and reduces the supervision requirements for table games per industry request.

(1) When decks of table game cards are received for use in the facility from a licensed supplier, the *[decks]* boxes shall be *[placed for*

(17) The Class B licensee shall—

(B) Verify on a daily basis the number of decks stored, distributed, destroyed[,] or cancelled, and returned to the storage area; and

AUTHORITY: sections 313.004[, 313.805,] and 313.830, RSMo 2016, and section 313.805, RSMo Supp. 2021. Original rule filed Dec. 17, 1996, effective Aug. 30, 1997. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 20, 2022.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment via email to MGCPolicy@mgc.dps.mo.gov, or by mail to the Missouri Gaming Commission, Policy Section, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for April 4, 2022, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

PROPOSED AMENDMENT

11 CSR 45-5.265 Dice—Receipt, Storage, Inspections, and Removal from Use. The commission is amending the title and sections (1), (7), and (8).

PURPOSE: This amendment makes these rules consistent with other regulations and reduces the supervision requirements for table games per industry request.

(1) When dice are received for use in the facility from a licensed supplier, the boxes shall be *[placed for storage]* **promptly inspected and the dice shall be stored** in a primary or secondary storage area by at least two (2) employees, one (1) of whom shall be from the table games department and the other from the security department. The primary storage area shall be located in a secure place, the location and physical characteristics of which shall be approved by the commission. Secondary storage areas, if needed, shall be used for the storage of surplus dice. Dice maintained in secondary storage areas shall be transferred to the primary storage area before being distributed to the pits or tables. All secondary storage areas shall be located in secure areas, the location and physical characteristics of which shall be approved by the commission.

(7) At the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the Class B licensee and approved by the commission, and at such other times as may be necessary, a *[pit manager or supervisor of the pit manager]* **table games supervisor or above** shall collect all extra dice in dice reserve.

(A) All extra dice in dice reserve that are to be destroyed or cancelled shall be placed in a sealed envelope or container, with a label attached to each envelope or container which identifies the date and time and is signed by the *[pit manager]* **table games supervisor or above**.

(8) At the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the Class B licensee and approved by the commission, and at such other times as may be necessary, a security officer shall collect—

(A) All envelopes or containers of used dice and any dice in dice reserve that are to be destroyed or cancelled and shall transport them to the *[security department]* **card and dice inspection room** for cancellation or destruction;

AUTHORITY: sections 313.004[, and 313.845, RSMo 2000, and sections 313.805,] and 313.830, [RSMo Supp. 2014] RSMo 2016, and section 313.805, RSMo Supp. 2021. Original rule filed Dec. 17, 1996, effective Aug. 30, 1997. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 20, 2022.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment via email to MGCPolicy@mgc.dps.mo.gov, or by mail to the Missouri Gaming Commission, Policy Section, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for April 4, 2022, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 9—Internal Control System**

PROPOSED AMENDMENT

11 CSR 45-9.104 Minimum Internal Control Standards (MICS)—Chapter D. The commission is amending section (1).

PURPOSE: This amendment allows for new technology on table games, adds procedures to identify handheld cards, requires casinos to have at least three (3) deck colors/designs for single decks for business continuity, allows the casinos to determine supervision requirements for table games, and clarifies the commission's expectations of table game supervision.

(1) The commission *[shall adopt and publish]* **has established** minimum standards for internal control procedures that in the commission's opinion satisfy 11 CSR 45-9.020, as set forth in *Minimum Internal Control Standards (MICS) Chapter D—Table Games (Live Games)*, which *[has been]* is incorporated by reference *[herein, as]* **and made part of this rule as adopted by the commission on January 19, 2022, and published by the Missouri Gaming Commission, 3417 Knipp Dr., PO Box 1847, Jefferson City, MO 65102 and which may be accessed at <http://www.mgc.dps.mo.gov>.** Chapter D does not incorporate any subsequent amendments or additions *[as adopted by the commission on October 26, 2016]*.

AUTHORITY: sections 313.004, [313.800, 313.805, 313.812,] 313.817, and 313.830, RSMo 2016, and sections 313.800, 313.805, and 313.812, RSMo Supp. 2021. Emergency rule filed July 31, 2014, effective Aug. 28, 2014, expired Feb. 26, 2015. Original rule filed July 31, 2014, effective Feb. 28, 2015. Amended: Filed Oct. 27, 2016, effective June 30, 2017. Amended: Filed Jan. 20, 2022.

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

PRIVATE COST: This proposed amendment will cost private entities an estimated eight thousand five hundred dollars (\$8,500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment via email to MGCPolicy@mgc.dps.mo.gov, or by mail to the Missouri Gaming Commission, Policy Section, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for April 4, 2022, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Department Title: Department of Public Safety
Division Title: Missouri Gaming Commission
Chapter Title: Internal Control System

Rule Number and Name: 11 CSR 45-9.104 Minimum Internal Control Standards (MICS)–Chapter D

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 rule:	Classification by type 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:
3 Class B Licensees	Excursion Gambling Boats (hereafter referred to as "Casinos")	\$8,500

The information used to calculate these estimated costs was obtained from the three affected casinos.

III. WORKSHEET

A one-time cost for the initial order of a third color or design, as reported by the three affected casinos---
 $\$1,500 + \$3,500 + \$3,500 = \$8,500$
 The commission cannot independently verify the cost estimate.

IV. ASSUMPTIONS

The casinos would still use the same number of decks per year; however, the quantity of decks would be divided across three colors or designs instead of two.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Alcohol and Tobacco Control
Chapter 2—Rules and Regulations**

PROPOSED AMENDMENT

11 CSR 70-2.010 Definitions. The division is adding new sections (1)-(3), (5), (6), (9), (10), (13), (19), (21), (24), (26)-(28), amending the rule purpose and sections (4), (7), (8), (12), (16)-(18), (20), and (22), and renumbering as necessary.

PURPOSE: This amendment clarifies some definitions and adds new definitions to support Chapter 311.

PURPOSE: This rule defines certain terms pertaining to and commonly used throughout Chapter[s] 311 [and 312], RSMo, and the rules and regulations of the supervisor of liquor control.

(1) Close proximity refers to two (2) or more areas that are located on one (1) continuous tract of land owned or leased by the same person, or within line of sight of one another, or located on an adjoining property owned or leased by the same person.

(2) Delivery occurs when a licensee transports or uses an employee or agent to transport intoxicating liquor to a consumer at a location other than the licensed premises.

(3) Direct financial interest means personally having, owning, or otherwise holding a financial interest.

[(1)](4) Domestic wine is [wine containing not in excess of eighteen percent (18%) of alcohol by weight and manufactured from grapes, berries, and other fruits and vegetables grown in Missouri] defined in accordance with section 311.190, RSMo.

(5) Good moral character refers to honesty, fairness, and respect for the rights of others and for the laws of the state and nation.

(6) Indirect financial interest means enjoying the benefits of a direct financial interest of another person, as that term is defined in section 311.030, RSMo, or having any control over another person with a direct financial interest, including but not limited to: a spouse, minor child, or other relative living in the same home holding a direct financial interest; sharing monetary assets or liabilities with another person with a direct financial interest; having more than a ten percent (10%) ownership interest in another person with a direct financial interest; directly managing or serving as the managing officer of another person with a direct financial interest; or sharing common ownership where the common owner has more than a ten percent (10%) interest in each person.

[(2)](7) Intoxicating liquor [includes alcohol for beverage purposes, alcohol, spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes containing in excess of one-half of one percent (.5%) of alcohol by volume] is defined in accordance with 311.020, RSMo.

[(3)](8) Malt liquor or beer is [any beverage brewed from malt or a malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juices, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer. Flavor and other nonbeverage ingredients containing alcohol may be used in producing beer, but may contribute to no more than forty-nine percent (49%) of the overall alcohol content of the finished beer. In the case of beer with an alcohol content

of more than six percent (6%) by volume, no more than one and one-half percent (1.5%) of the volume of the beer may consist of alcohol derived from added flavors and other non-beverage ingredients containing alcohol] defined in accordance with section 311.490(1) and (2), RSMo.

(9) Managing officer means an individual in an applicant or licensee's employ or agent thereof who shall be responsible for any licenses issued by the state supervisor and serves as the division's primary point of contact with the applicant or licensee.

(10) The words manufacturer and manufacturer-solicitor, whenever used as nouns in Chapter 311, RSMo, and in these regulations, are synonymous.

[(4)](11) Ordinary Commercial Credit.

(A) Malt Beverages. Ordinary commercial credit for malt beverages is credit that requires payment to be made by the retail licensee by the last day of the month for malt beverages delivered on or after the first day of the month and up to and including the fifteenth day of the month and by the fifteenth day of the following month for malt beverages delivered to the retail licensee on or after the sixteenth day of the month and up to and including the last day of the month. No brewer or wholesaler may sell or deliver malt beverages while the retail licensee owes the brewer or wholesaler for malt beverages beyond the period of time as indicated in this subsection.

(B) Spirituous Liquor and Wine. Ordinary commercial credit for spirituous liquor and/or wine is credit that requires payment to be made by the retail licensee within thirty (30) days after the delivery of spirituous liquor and/or wine to the retail licensee. No distiller, wholesaler, or wine maker may sell or deliver spirituous liquor and/or wine while the licensee owes the distiller, wholesaler, or wine maker for spirituous liquor and/or wine beyond the period of time as indicated in this subsection.

[(5)](12) Original package refers to any package containing one (1) or more [standard] bottles, pouches, or cans of malt liquor, [fifty (50) milliliters (1.7 ounces) or more of] spirituous liquors, [and one hundred (100) milliliters (3.4 ounces) or more of] or wine in the manufacturer's original sealed container. [A standard bottle is any bottle, pouch, or can containing twelve (12) ounces or less of malt liquor.]

(13) The word permit, whenever used as a verb in Chapter 311, RSMo, and in these regulations, means to have knowledge of an event or activity and to authorize, make possible, allow by tacit consent, or fail to prevent said event or activity from occurring. Knowledge of an event or activity may be inferred if the event or activity occurs openly, or if knowledge of the event or activity could have been obtained through the exercise of reasonable care and diligence.

[(6)](14) The words permit and license, whenever used as nouns in Chapter 311, RSMo, and in these regulations are synonymous.

[(7)](15) The words permittee and licensee, whenever used as nouns in Chapter 311, RSMo, and in these regulations are synonymous.

[(8)](16) Person is [any individual, association, joint stock company, syndicate, copartnership, corporation, receiver, conservator, or other officer appointed by any state or federal court. Clubs are also included within the meaning of the term] defined in accordance with section 311.030, RSMo.

[(9)](17) Premises [is the] or premise refers to any place where intoxicating liquor is sold or consumed and [it] may be one (1) room, a building comprising several rooms, two (2) or more buildings permanently connected by a covered walkway, or a building

with adjacent or surrounding land **that has clearly delineated, permanent boundaries and is not used primarily for vehicular travel or parking**, such as a lot or garden.

[(10)](18) Retailer is a person holding a license *[to]* **from the state supervisor authorizing the person to sell *[or to]*, offer to sell, or facilitate the sale of intoxicating liquor to consumers *[only]***.

(19) Shipment occurs when a licensee uses a common carrier to transport intoxicating liquor to a consumer at a location other than the licensed premises.

[(11)](20) **Spirits or *[S]*spiruous liquor** includes brandy, rum, whiskey, gin, **any distilled intoxicating liquor**, and all other preparations, **dilutions**, or mixtures for beverage purposes of a like character and excludes all **other** vinous, fermented, or malt liquors.

(21) Unlabeled liquor includes any intoxicating liquor that does not have a label affixed to the original package, that has a label affixed to the original package which has not been approved in accordance with state and federal laws and regulations, or that has an approved label that has been affixed to the original package in a way that is not in accordance with state or federal laws and regulations.

[(12)](22) **The words *[W]*wholesaler and/or wholesale-solicitor *[is a person holding a license to sell intoxicating liquor to wholesalers or to retailers]* whenever used as nouns in Chapter 311, RSMo, and in these regulations, are synonymous.**

[(13)](23) Wine is a vinous liquor produced by fermentation of juices of grapes, berries, or other fruits, or a preparation of certain vegetables by fermentation, and containing alcohol not in excess of twenty-two percent (22%) by volume.

(24) A case of wine, for the purposes of wine direct shipments, is a box, crate, or other container that holds twelve (12) standard bottles of wine in the manufacturer's original package, each containing seven hundred fifty milliliters (750 ml), or holds one (1) or more containers of wine in the manufacturer's original package with an aggregate total of no more than nine (9) liters or two and thirty-eight hundredths (2.38) gallons of wine.

[(14)](25) Applicant refers to the sole proprietor, partnership, or entity applying for a liquor license.

(A) Entity refers to any association, corporation, limited liability company, limited partnership, or other business structure not in conformance with a sole proprietor or partnership structure as defined herein.

(B) Partnership refers to two (2) or more persons who share management and profits.

(C) Sole Proprietor refers to a business that legally has no separate existence from its owner and is not considered a legal entity. Income and losses are taxed on the individual's personal income tax return.

(26) Entity refers to any association, corporation, limited liability company, limited partnership, or other business structure which has a separate legal existence from its owner(s) and is considered a legal personality. Entity also includes any business structure not in conformance with a sole proprietor or partnership structure as defined herein.

(27) Partnership refers to two (2) or more persons who share control over the management and profits of a business structure. The business has no separate legal existence from the partners and is not considered a legal personality.

(28) Sole proprietor refers to one (1) person who exercises exclu-

sive control over the management and profits of a business structure. The business has no separate existence from its owner and is not considered a legal personality. Income and losses are taxed on the individual's personal income tax return.

AUTHORITY: section 311.660, RSMo [2016] Supp. 2021. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 25, 2022.

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 Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level, Jefferson City, MO 65101 or by facsimile at (573) 526-4369, or via email at Clayton.Weems@dps.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 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Alcohol and Tobacco Control
Chapter 2—Rules and Regulations**

PROPOSED AMENDMENT

11 CSR 70-2.020 Application for License. The Division of Alcohol and Tobacco Control is amending the rule purpose, sections (1), (3), (4), (5), (6), (7), (8), and (10), adding new sections (11), (13), and (14), and renumbering as necessary.

PURPOSE: This amendment clarifies the responsibilities of license applicants.

*PURPOSE: This rule prescribes forms and applications and establishes procedure for the issuance of all intoxicating liquor *[and non-intoxicating beer]* licenses.*

(1) Applications for licenses including payment for the correct amount of the license fee are to be submitted to the supervisor of Alcohol and Tobacco Control at the Central Office in Jefferson City, or any operational Alcohol and Tobacco Control field office within the state. If payment is rejected for insufficient funds and the licensee has not replaced such payment within *[fourteen (14)]* **fifteen (15)** days of notification with sufficient funds, then beginning with the *[fifteenth]* **sixteenth** day, if such licensee's renewed license has been issued, such renewed license shall be suspended until the day following the day the licensee makes restitution for the insufficient funds payment, or if such licensee's renewed license has not been issued, the renewed license shall not be issued until on or after the day following the day the licensee makes restitution for the insufficient funds payment.

(3) No *[agent may authorize any applicant to exercise the privileges of the license applied for pending its issuance]* **applicant may exercise the privileges of the license applied for prior to its issuance.**

(4) If application is made by a partnership, the application *[should]* **shall** set out the names and residences of all the partners, whether they be active or silent *[partners]*, **and be signed by all the partners.** All

partners shall qualify under the laws of Missouri for the license. *[All partners are to sign the application.]*

(5) If application is made by an entity, the application *[should]* shall set out the names and residences of any officers and all members or shareholders, whether they be active or silent *[investors]*, and be signed by the managing officer. *[All members or shareholders]* The entity shall qualify under the laws of Missouri for the license.

(6) **No application will be considered which is not complete.** No license may be granted to an applicant unless *[s/he]* the applicant makes full, true, and complete answers to all questions in the application. Any false answer to any question in the application or *[false statement]* omission of a material matter in *[his/her]* the application, may be cause for *[suspension or revocation]* denial of the application or discipline of any license issued pursuant to the application.

(7) Violation of any oath taken by a licensee or any person(s) listed in the application in connection with *[his/her]* the application for a license is cause for *[suspension or revocation]* denial of the application or discipline of *[the]* any license *[where an oath is necessary, by any statute of Missouri or any regulation of the Supervisor of Alcohol and Tobacco Control, to be taken]* issued pursuant to the application.

(8) If the supervisor of Alcohol and Tobacco Control has reason to believe that an applicant or any person(s) listed in the application has a criminal record and is not a person of good moral character, the supervisor may request that the applicant or person(s) listed in the application submit to being fingerprinted and fingerprints forwarded to the Department of Justice to ascertain if the applicant or person(s) listed in the application has been convicted of any crime.

(10) Every applicant for a liquor license of any kind will present all applicable items listed on the checklist of requirements that corresponds to the application form as prescribed by the supervisor of Alcohol and Tobacco Control. **Failure to present all applicable items may be cause for denial of the application or discipline of any license issued pursuant to the application.**

(11) **Every applicant for a liquor license of any kind must provide written notice to the supervisor of Alcohol and Tobacco Control if any fact or information changes from what is set forth in the application. Failure to provide written notice of such changes may be cause to deny the application or to discipline any license issued pursuant to the application.**

[(11)](12) No license may be issued to the spouse, child(ren), step-child(ren), parent(s), stepparent(s), son-in-law or daughter-in-law, employee, or other person having any interest in the business of a licensee whose license has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was revoked until a period of five (5) years after the date of the revocation of the license, and then at the discretion of the supervisor of Alcohol and Tobacco Control.

(13) **Ineligible Premises.**

(A) No license may be issued for any premises that has been condemned by a federal, state, county, or local government entity, or has been declared a public and common nuisance by a court of law.

(B) No license may be issued for any premises that is transitory, moveable, or not permanently anchored to the ground, unless expressly permitted under Chapter 311, RSMo, or the regulations promulgated thereunder. This regulation does not apply to any applicant seeking a temporary license, except for temporary licenses issued under section 311.095, RSMo.

(C) No license may be issued for any premises that contains a

private residence. Where an application seeks to license a portion of any building that contains a private residence, the building must have permanent partitions such that the licensed premises is separate and distinct from any residential areas. The licensed premises and the private residence must each have separate entrances and street addresses. This regulation does not apply to hotels, motels, bed and breakfasts, any premises that offers commercial overnight lodging, or any premises that does not receive or store intoxicating liquor on-site for commercial use.

(D) No license may be issued to any premises that includes, in whole or in part, the licensed premises of a current licensee. Where an applicant wishes to be licensed to operate on a premises that includes, in whole or in part, the licensed premises of a current licensee, the applicant must provide documentation showing that the current licensee either no longer owns or has a lease to operate out of the licensed premises or has agreed to surrender the premises in question to the applicant for the applicant's exclusive use. This regulation does not apply to any applicant seeking a temporary license, except for temporary licenses issued under section 311.095, RSMo.

(14) When the supervisor receives applications from two or more applicants seeking to operate out of the same premises, those applications will be processed in the order in which they were received. No application will be considered unless the previous applicant(s) have withdrawn its application or the supervisor has denied the previous applicant(s) and the previous applicant(s) have exhausted the administrative remedies found in section 311.691, RSMo.

[(12)](15) The supervisor of Alcohol and Tobacco Control, at his/her discretion and for good cause, may issue a temporary license for up to ten (10) days. A completed application with all required current documents and payment of license fees and any late charges must be in receipt of the Division of Alcohol and Tobacco Control before a temporary license may be considered by the supervisor of Alcohol and Tobacco Control.

AUTHORITY: section 311.660, RSMo [2016] Supp. 2021. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 25, 2022.

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 Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level, Jefferson City, MO 65101 or by facsimile at (573) 526-4369, or via email at Clayton.Weems@dps.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 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Alcohol and Tobacco Control
Chapter 2—Rules and Regulations**

PROPOSED AMENDMENT

11 CSR 70-2.030 Change of Facts, Posting, Transfer, and Lost Licenses—Executors—Administrators. The Division of Alcohol

and Tobacco Control is amending sections (2), (3), (4), (5), and (7) and adding new section (8).

PURPOSE: This amendment lists the responsibilities of the managing officer and clarifies the expectations for change of facts.

(2) A license issued pursuant to this chapter is to be displayed in a conspicuous place on the premises where the business is carried on, as well as any city or county license designating the premises as a place to sell intoxicating liquor. *[A] No license may [only] be posted at the premises where traffic in intoxicating liquor is being carried on by any person other than the licensee. A license may not be knowingly defaced, destroyed, or altered.*

(3) The supervisor of Alcohol and Tobacco Control may allow a license to be transferred to any other premises or to any other part of the building containing the licensed premises, provided the premises sought to be licensed meets the requirements of the law. *The [supervisor first must approve] licensee must apply for permission to transfer in writing [the transfer and the], and the supervisor must approve the application for permission to transfer before the license can be transferred.* The application for permission to transfer *[including] must include—*

(A) [Name and address of licensee] Legal name, business name or d/b/a, and license number(s) of licensee;

(B) Address and legal description of current premises;

[(B)](C) Address and legal description of premises to which [removal] transfer is sought, together with name and address of owner or landlord; and

[(C) An affidavit by the licensee that s/he has not violated any provisions of the Liquor Control Act or any rule of the supervisor; and]

(4) Whenever a license is lost or destroyed *[without fault on the part of the licensee or his/her agents or employees]*, a duplicate license in lieu of the lost or destroyed license may be issued by the supervisor of Alcohol and Tobacco Control without cost to the licensee.

(5) Unless licensed by the supervisor of Alcohol and Tobacco Control as such, no receiver, assignee, trustee, guardian, administrator, or executor may sell any intoxicating liquor belonging to the estate over which s/he has control, except to a licensed wholesaler or retailer *[except]* with the **written** consent of the supervisor of Alcohol and Tobacco Control to sell the intoxicating liquor. The supervisor may **give written** consent after receiving the following documents and information:

(7) Corporations and other entities licensed under the provisions of section 311.060, RSMo, *[are to have] shall designate* a managing officer who is *[a person] an individual* in the corporation's or other entity's employ, either as an officer or an employee with the general control and superintendence of the licensed premises, or an agent capable of representing and binding the corporation or other entity during all interactions or proceedings with the supervisor or a designated representative dealing with the Liquor Control Law.

(A) The managing officer shall be responsible for:

1. Receiving correspondence from the supervisor or a designated representative dealing with the Liquor Control Law;

2. Responding to verbal communications requests from the supervisor or a designated representative dealing with the Liquor Control Law;

3. Providing information requested by the state supervisor or a designated representative dealing with the Liquor Control Law;

4. Assisting in the preparation of the original application for licensure and any subsequent renewal applications, signing such applications, and swearing to the accuracy of all information con-

tained in such applications.

(B) If the managing officer is not an officer or an employee with the general control and superintendence of the licensed premises, the managing officer must have limited power of attorney to represent and bind the corporation or other entity during all interactions with the supervisor or a designated representative dealing with the Liquor Control Law.

(C) Applicants must submit documentation alongside their application sufficient to prove that the managing officer designated in the application satisfies the qualifications in section 311.060, RSMo, and this regulation.

[(A)](D) If a vacancy occurs in the office of the managing officer, a replacement *[qualified, pursuant to section 311.060, RSMo,]* shall be named within fifteen (15) days of the vacancy. Replacements must qualify under section 311.060, RSMo, and this regulation. If the supervisor determines that a replacement does not qualify under section 311.060, RSMo, and this regulation, the supervisor shall notify the licensee in writing, and the licensee shall have fifteen (15) days from the date of the written notice to name a qualified replacement.

(8) Licensees are responsible for ensuring that the contact information for all persons listed in the application on record with the division is accurate and current.

AUTHORITY: section 311.660, RSMo [2016] Supp. 2021. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019. Amended: Filed Aug. 14, 2020, effective March 30, 2021. Amended: Filed Jan. 25, 2022.

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 Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level, Jefferson City, MO 65101 or by facsimile at (573) 526-4369, or via email at Clayton.Weems@dps.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 11—DEPARTMENT OF PUBLIC SAFETY Division 70—Division of Alcohol and Tobacco Control Chapter 2—Rules and Regulations

PROPOSED AMENDMENT

11 CSR 70-2.050 Wholesalers' Conduct of Business. The Division of Alcohol and Tobacco Control is amending sections (1) and (3), adding sections (2) and (4), removing previous section (7), and renumbering as necessary.

PURPOSE: This amendment clarifies the responsibilities of wholesalers.

(1) No wholesaler may buy, obtain, or accept any intoxicating liquors from any person who *[does not hold a Missouri permit as a manufacturer or solicitor, provided that the] is not registered with the division of Alcohol and Tobacco Control as the primary American source of supply or who is not a licensed wholesale-solicitor.* However, a wholesaler owning warehouse receipts may obtain the written permission from the supervisor of

Alcohol and Tobacco Control to receive intoxicating liquor from federal customs bonded warehouses or federal internal revenue bonded warehouses.

(2) No wholesaler may sell, deliver, or cause any intoxicating liquors to be sold or delivered to any licensee unless the wholesaler bought, obtained, or accepted the intoxicating liquor from the person registered with the division of Alcohol and Tobacco Control as the primary American source of supply or a licensed wholesale-solicitor.

[(2)](3) No wholesale licensee may sell, deliver, or cause any intoxicating liquors to be sold or delivered to any licensee while the licensee is under suspension by the supervisor of Alcohol and Tobacco Control.

(4) No wholesale licensee who has had his/her license suspended by order of the supervisor of Alcohol and Tobacco Control may sell or give away any intoxicating liquor, nor order or accept delivery of any intoxicating liquor during the period of time the order of suspension is in effect.

[(3)](5) All wholesale licensees are to keep and maintain a place for storage of merchandise, which is designated in the license and separate and apart from any storage place used by others and with a separate entrance and street address.

[(4)](6) No wholesaler licensee may deliver or cause intoxicating liquors to be delivered to any premises unless there is a license displayed prominently issued by the supervisor of Alcohol and Tobacco Control to the person purchasing the liquor, wine, or beer, designating the purchaser as a person, licensed to sell on the premises the kind of liquor, wine, or beer s/he is about to deliver.

[(5)](7) Wholesalers licensed to sell intoxicating liquor are to make and keep invoices for all sales or deliveries of intoxicating liquor and the Missouri license number of every person to whom intoxicating liquor is sold or delivered by the licensees is to be written or stamped upon the invoices.

[(6)](8) Shipments by wholesalers or solicitors may be made only to licensed dealers of this or other states. A bill of lading is to be secured from the carrier and kept on file for a period of two (2) years so that shipments may be traced by the division's auditors or agents.

[(7) No manufacturer who has acquired knowledge or been given notice that a wholesaler has been suspended may make sales or deliver merchandise to the wholesaler during the period of time that the licensee is under suspension.]

AUTHORITY: section 311.660, RSMo [2016] Supp. 2021. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed April 23, 1981, effective Aug. 13, 1981. Amended: Filed Oct. 10, 2018, effective May 30, 2019. Amended: Filed Jan. 25, 2022.

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 Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level, Jefferson City, MO 65101 or by facsimile at (573) 526-4369, or via email at Clayton.Weems@dps.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 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Alcohol and Tobacco Control
Chapter 2—Rules and Regulations**

PROPOSED AMENDMENT

11 CSR 70-2.060 Manufacturers. The Division of Alcohol and Tobacco Control is moving section (6) to section (1), adding a new section (7), renumbering as necessary, and amending new section (6).

PURPOSE: This amendment moves the definitions to the beginning of the rule and clarifies the responsibilities of manufacturers.

(1) For the purpose of this regulation the following definitions apply:

(A) A “facility which brews or manufactures malt liquor” is defined as a brewery or manufacturing plant premises licensed by either or both the state within which it is located and/or the U.S. Treasury Department, Alcohol and Tobacco Tax and Trade Bureau; and

(B) An “owner” of a facility which brews or manufactures malt liquor is defined as an entity, who holds the entire facility in fee simple, or has a leasehold interest for a term of years in that entire facility, and is the person or business entity licensed for that entire facility by either or both the state within which the facility is located and/or the U.S. Treasury Department, Alcohol and Tobacco Tax and Trade Bureau.

[(1)](2) Regulations announced pursuant to the Federal Alcohol Administration Act relating to labeling of distilled spirits, wine, and malt beverages, packaged for shipment in interstate commerce, are made a part of this regulation as though fully set forth and are promulgated with respect to Missouri; these regulations apply to distilled spirits, wine, and malt beverages packaged purely for interstate shipment insofar as the regulations are not contrary to or inconsistent with the laws of Missouri. In addition to the regulations, the label of every container of spirituous liquor, wine, or malt liquor, unless already required by the regulations, shall set forth the name and address of the manufacturer, brewer, distiller, rectifier, or producer of the spirituous liquor, wine, or malt liquor as the case may be; provided that if the name of the brewer or manufacturer of malt liquor which appears on the label is not the owner of the facility where the malt liquor was brewed or manufactured, then the name, owner, and address of the facility shall also be set forth on the label.

[(2)](3) All licensees engaged in bottling intoxicating liquor and alcoholic beverages, before filling any bottle, shall cause the same to be sterilized by one (1) of the following methods:

(A) All new bottles, unless sterile, are to be sterilized or cleaned by thoroughly rinsing with clean sterile water or by blowing or vacuuming with proper machines for sterilization or cleansing; and

(B) All used bottles are to be sterilized by soaking in a hot caustic solution which contains not less than three percent (3%) caustic or alkali expressed in terms of sodium hydrate. The period of time in the solution is to be governed by the temperature and strength of the solution. The bottles are then to be rinsed thoroughly in clean sterile water until free from alkali or sodium hydrate.

[(3)](4) All manufacturers and wholesalers are to keep their premises and equipment in a clean and sanitary condition.

[(4)](5) Applicants for a manufacturing license shall provide a copy of a certificate demonstrating successful completion of a health inspection with their license application. No such applicant may be granted a manufacturer license without such a certificate, subject to the following exceptions:

(A) If an applicant does not have a health inspection certificate on the day they file their license application, they may submit a written

statement with their application stating that they will provide a copy of their health inspection certificate within ten (10) days of the issuance of that certificate. Failure to provide a copy of the health certificate within ten (10) days of issuance may result in disciplinary action; and

(B) If a state or local health authority determines that an applicant does not need a health inspection, the applicant may submit documentation from said state or local health authority showing that the applicant does not need a health inspection in lieu of a health inspection certificate.

[(5)](6) [Malt liquor in bottles, cans, jugs, barrels, or kegs] **No intoxicating liquor** may be brought in or transported within this state for the purpose of sale to any licensee or [be] sold to any licensee **except** in [cases, barrels, or kegs] **containers** the sizes of which have been approved by the U.S. Treasury Department, Alcohol and Tobacco Tax and Trade Bureau.

[(6) For the purpose of the regulation the following definitions apply:

(A) A "facility which brews or manufactures malt liquor" is defined as a brewery or manufacturing plant premises licensed by either, or both, the state within which it is located and/or the US Treasury Department, Alcohol and Tobacco Tax and Trade Bureau; and

(B) An "owner" of a facility which brews or manufactures malt liquor is defined as an entity, who holds the entire facility in fee simple, or has a leasehold interest for a term of years in that entire facility, and is the person or business entity licensed for that entire facility by either or both, the state within which the facility is located and/or the US Treasury Department, Alcohol and Tobacco Tax and Trade Bureau.]

(7) **No manufacturer who has acquired knowledge or been given notice that a wholesaler has been suspended may make sales or deliver merchandise to the wholesaler during the period of time that the licensee is under suspension.**

AUTHORITY: section 311.660, RSMo [2016] Supp. 2021. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 25, 2022.

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 Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level, Jefferson City, MO 65101 or by facsimile at (573) 526-4369, or via email at Clayton.Weems@dps.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 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Alcohol and Tobacco Control
Chapter 2—Rules and Regulations**

PROPOSED AMENDMENT

11 CSR 70-2.070 Tax on Spirituous Liquor and Wine. The Division

of Alcohol and Tobacco Control is removing section (1), amending and renumbering sections (2) and (3), and renumbering section (4).

PURPOSE: This amendment is cleanup of the rule. The removed section is in II CSR 70-2.060.

[(1) No wine or spirituous liquor may be brought in or transported within this state for the purpose of sale to any licensee or be sold to any licensee in other than containers, the sizes of which have been approved by the US Treasury Department, Alcohol and Tobacco Tax and Trade Bureau.]

[(2)](1) The tax on spirituous liquor is two dollars (\$2.00) per gallon and the tax on wine is forty-two cents (\$0.42) per gallon.

[(3)](2) Any spirituous liquor or wine shipped [into], **delivered**, sold, or offered for sale in this state without payment of the proper amount of taxes due is contraband and may be seized and disposed of by the supervisor or his/her agents.

[(4)](3) No person other than a licensed distiller, rectifier, or wine manufacturer may possess in this state any spirituous liquor or wines without the proper amount of taxes having been paid, except as provided in section 311.580, RSMo.

AUTHORITY: section 311.660, RSMo [2016] Supp. 2021. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 25, 2022.

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 Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level, Jefferson City, MO 65101 or by facsimile at (573) 526-4369, or via email at Clayton.Weems@dps.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 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Alcohol and Tobacco Control
Chapter 2—Rules and Regulations**

PROPOSED AMENDMENT

11 CSR 70-2.080 Malt Liquor Tax. The Division of Alcohol and Tobacco Control is amending the rule purpose, sections (1) and (2); adding new section (3); removing previous section (2); and renumbering as necessary.

PURPOSE: This amendment provides cleanup of the rule and expectations for possession of malt liquor.

PURPOSE: This rule establishes tax amounts on various container sizes of malt beverages [and nonintoxicating beer], defines contraband, and prohibits possession of untaxed cereal malt beverages.

(1) The tax on malt liquor is one dollar eighty-six cents (\$1.86) per barrel or six cents (\$0.06) per gallon.

[(2) No sale or delivery of malt liquor may be made in this state without the proper amount of Missouri tax being paid.]

[(3)](2) Any malt liquor shipped [into], delivered, sold, or offered for sale in this state without payment of the proper amount of taxes due is contraband and may be seized and disposed of by the supervisor or his/her agents.

(3) No person other than a licensed brewer or malt liquor manufacturer may possess in this state any malt liquor without the proper amount of taxes having been paid, except as provided in section 311.580, RSMo.

AUTHORITY: section 311.660, RSMo [2016] Supp. 2021. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Feb. 27, 1998, effective Aug. 30, 1998. Amended: Filed Oct. 10, 2018, effective May 30, 2019. Amended: Filed Jan. 25, 2022.

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 Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level, Jefferson City, MO 65101 or by facsimile at (573) 526-4369, or via email at Clayton.Weems@dps.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 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Alcohol and Tobacco Control
Chapter 2—Rules and Regulations**

PROPOSED AMENDMENT

11 CSR 70-2.090 Report[ing]s of Distillers, Solicitors, Wine Manufacturers, and Wholesalers. The Division of Alcohol and Tobacco Control is amending the title of this regulation, amending sections (1) and (2), and adding new sections (3) and (4).

PURPOSE: This amendment clarifies reporting requirements for wine and spirituous liquor manufacturers, solicitors, and wholesalers.

(1) Every distiller, solicitor, and wine manufacturer licensed to sell spirituous liquor and wine in this state needs to file with the supervisor of Alcohol and Tobacco Control a report listing all Missouri wholesale licensees with whom it transacts business and attach to the report a copy of any contract or agreement between the distiller, solicitor, or wine manufacturer and wholesale licensee. Any change in the listing is to be reported in writing within *[ten (10)] fifteen (15)* days of the effective date of the change. A copy of any change in an existing contract or agreement and a copy of any new contract or agreement is to be submitted at the time of execution thereof. If there is no contract or agreement with respect to any wholesaler, the distiller, solicitor, or wine manufacturer should so indicate in its report.

(2) On or before the 15th of each month, every distiller, solicitor, wine manufacturer, and wholesaler authorized to ship spirituous liquor and wine in this state, whether for sale in this state or to be

shipped outside *[the]* this state, shall certify in a report under oath to the supervisor of Alcohol and Tobacco Control setting out all sales of spirituous liquor and wine in this state for the preceding month.

[(A) The reports, when made by a licensee who has shipped spirituous liquor and wine into this state, should show the amount of spirituous liquor and wine shipped or sold to each wholesaler in this state for the previous month, designating separately the amount of spirituous liquor and the amount of wine.

(B) Reports made by distillers, solicitor, and wine manufacturers in this state shall show the amount of spirituous liquor and wine distilled or manufactured, amount bottled, and the amount of spirituous liquor or wine sold in this state, designating separately the amount of spirituous liquor and wine; the amount of spirituous liquor or wine sold outside this state, designating separately the amount of spirituous liquor and wine and the amount of spirituous liquor and wine on hand at the end of each month. They also shall show the amount of spirituous liquor or wine sold or shipped to each wholesale licensee in this state; setting out the date of sale, name and address of licensee, and amount of spirituous liquor or wine sold for the previous month.

(C) Reports made by spirituous liquor and wine wholesalers in this state are to show the amount of spirituous liquor and wine received from other distillers, solicitors, wine manufacturers, and wholesalers; and the amount of liquor and wine sold to other wholesale licensees for the previous month.

(D) Forms for the reports required by this regulation are available from the supervisor.]

(3) All reports required by this regulation must be submitted on forms provided by the supervisor of Alcohol and Tobacco Control.

(4) All reports required by this regulation must be complete in every material detail. If any information requested in a report is missing, inaccurate, or otherwise incomplete, the supervisor of Alcohol and Tobacco Control may, at his/her sole discretion: reject the report; require the licensee to correct the report; require the licensee to pay any shortcomings or discrepancies; or any combination thereof. The licensee must submit a new report, correct the report, and/or pay any shortcomings or discrepancies within fifteen (15) days of the supervisor sending written notice to the licensee at the address currently registered with the division. Failure to do so may result in disciplinary action.

AUTHORITY: section 311.660, RSMo [2016] Supp. 2021. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019. Amended: Filed Jan. 25, 2022.

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 Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level, Jefferson City, MO 65101 or by facsimile at (573) 526-4369, or via email at Clayton.Weems@dps.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 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Alcohol and Tobacco Control
Chapter 2—Rules and Regulations**

PROPOSED AMENDMENT

11 CSR 70-2.100 Report of Brewers, Beer Manufacturers, Solicitors, and Beer Wholesalers. The Division of Alcohol and Tobacco Control is amending the title and purpose of this regulation and amending sections (1), (2), and (3).

PURPOSE: This amendment clarifies the reporting requirements for brewers, beer manufacturers, solicitors, and wholesalers.

PURPOSE: This rule establishes format for reports of shipment and payment of taxes on malt beverages [and nonintoxicating beer].

(1) On or before the 15th of each month, every **brewer and malt liquor manufacturer, [brewer, and bottler] solicitor, and wholesaler** authorized to ship malt liquor in[to] this state [and every manufacturer, brewer, or bottler in this state], whether for sale in this state or to be shipped outside this state, shall certify in a report under oath[,] to the supervisor of Alcohol and Tobacco Control[,] setting out all sales of malt liquor for the preceding month.

[(A) The reports, when made by a licensee who has shipped malt liquor into this state, are to show the amount of malt liquor shipped or sold to each wholesaler in this state for the previous month.]

(2) *[Reports made by manufacturers, brewers, and bottlers in this state should include the quantity of malt liquor on hand at the beginning of the month, the quantity produced during the month, and the quantity sold or shipped out of the state during the month and the quantity on hand at the end of the month. The report also should include the amount of malt liquor shipped or sold to each licensee in this state for the previous month.] All reports required by this regulation must be submitted on forms provided by the supervisor of Alcohol and Tobacco Control.*

(3) *[It is the duty of each holder of a license authorizing the sale of malt liquor at wholesale to file in the office of the supervisor of Alcohol and Tobacco Control on or before the fifteenth day of the month a sworn statement showing the amount of malt liquor purchased during the preceding month, and from whom purchased.] All reports required by this regulation must be complete in every material detail. If any information requested in a report is missing, inaccurate, or otherwise incomplete, the supervisor of Alcohol and Tobacco Control may, at his/her sole discretion: reject the report; require the licensee to correct the report; require the licensee to pay any shortcomings or discrepancies; or any combination thereof. The licensee must submit a new report, correct the report, and/or pay any shortcomings or discrepancies within fifteen (15) days of the supervisor sending written notice to the licensee at the address currently registered with the division. Failure to do so may result in disciplinary action.*

[(A) Forms for the reports required by this regulation are available from the supervisor.]

AUTHORITY: section 311.660, RSMo [2016] Supp. 2021. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Amended: Filed Oct. 10, 2018, effective May 30, 2019. Amended: Filed Jan. 25, 2022.

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 Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level, Jefferson City, MO 65101 or by facsimile at (573) 526-4369, or via email at Clayton.Weems@dps.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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 1—Organization of Department of Revenue**

PROPOSED AMENDMENT

12 CSR 10-1.020 Letter Rulings. The department is amending sections (2), (5), and (12).

PURPOSE: The purpose of this amendment includes allowing for electronic and email submission of letter ruling requests.

(2) A letter ruling request must be made **on the form or in the format specified by the director for letter ruling requests by email to dor.gco@dor.mo.gov or by the online submission of that form through the director's website. Alternatively, the letter ruling request may be made** in writing to: [the] Director of Revenue, [301 West High Street, Truman State Office Building, Room 670, PO Box 311,] **PO Box 475**, Jefferson City, MO 65105.

(5) A request for a letter ruling must be signed by the applicant or an authorized agent of the applicant. **If the letter ruling request is made on the form or in the format specified by the director by email or by the online submission of that form through the director's website, a digital or electronic signature by the applicant or authorized agent of the applicant satisfies this requirement.**

(12) The applicant may withdraw the request for a letter ruling, in writing or by email, prior to the issuance of the letter ruling.

AUTHORITY: section[s] 144.190.[7]9, RSMo Supp. 2021, and section 536.021.10, RSMo [Supp. 2005] 2016. Original rule filed Sept. 1, 1989, effective Dec. 11, 1989. Amended: Filed Oct. 20, 2005, effective May 30, 2006. Amended: Filed Feb. 1, 2022.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate, as any costs associated with the proposed amendment are not a product of the rule itself but incident to the statutory changes included in SB 176 (2021).

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate, as any costs associated with the proposed amendment are not a product of the rule itself but incident to the statutory changes included in SB 176 (2021).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Administration Division, 301 W High Street, Room 218, Jefferson City, MO 65105-0475. 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure**

PROPOSED RULE

12 CSR 10-26.231 Maximum Dealer Administrative Fees

PURPOSE: Section 301.558, RSMo, requires that the maximum administrative fee collected by motor vehicle dealers, boat dealers, and powersport dealers licensed pursuant to sections 301.550 to 301.580, RSMo, be increased annually by an amount equal to the percentage change in the annual average of the Consumer Price Index for All Urban Consumers, or its successor index. This rule will annually establish what, if any, maximum administrative fee may be collected by licensees.

(1) As required by section 301.558(4), RSMo, the values in the table below are the yearly maximum administrative fees which may be collected by motor vehicle dealers, boat dealers, and powersport dealers licensed pursuant to sections 301.550 to 301.580, RSMo, and as published in the *Missouri Register* as soon as practicable after January 14 of each year.

Maximum Fee (Year)	CPIAUC Increase	New Maximum Fee	Effective Licensure Year
\$500 (2021)	4.7%	\$523.50	2022

AUTHORITY: sections 301.553 and 301.558, RSMo Supp. 2021. Original rule filed Feb. 21, 2022.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate, as any costs associated with the proposed rule are not a product of the rule itself but incident to the statutory changes included in SB 176 (2021).

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate, as any costs associated with the proposed rule are not a product of the rule itself but incident to the statutory changes included in SB 176 (2021).

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Administration Division, 301 W High Street, Room 218, Jefferson City, MO 65105-0475. 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 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 5—Missouri Empowerment Scholarship
Accounts Program**

PROPOSED RULE

15 CSR 50-5.010 General Organization

PURPOSE: This regulation provides the public with a description of the Missouri Empowerment Scholarship Accounts Program, the methods of operations, procedures, and where the public may obtain information. This rule is adopted to fulfill the statutory requirement of section 536.023(3), RSMo.

(1) House Bill No. 349 and Senate Bill No. 86, 1st Regular Session, 101st General Assembly (2021) (effective August 28, 2021), codified at sections 135.712 through 135.719, RSMo, and sections 166.700 through 166.720, RSMo, create the Missouri Empowerment Scholarship Accounts Program (the program), to be administered by

the treasurer or if delegated by the treasurer, by the Missouri Empowerment Scholarship Accounts Board (the board). The board consists of the treasurer (who serves as chairman), the commissioner of the state Department of Higher Education, the commissioner of the Department of Elementary and Secondary Education, the commissioner of the state Office of Administration, one (1) person appointed by the president pro tempore of the state Senate, one (1) person appointed by the speaker of the House of Representatives, and one (1) person to be appointed by the governor with the advice and consent of the Senate. The board's primary purpose is to administer the program duties the treasurer delegates to the board, and, when delegated by the treasurer, the board possesses all powers necessary to carry out and accomplish the purposes, objectives, and provisions of the statutes.

(2) The program is created to promote educational opportunities and improve the quality of educational services to ensure all children receive the high-quality education to which they are entitled.

(3) The public may obtain information or make submissions or requests to the Office of the State Treasurer, PO Box 210, Jefferson City, MO 65102, (573) 751-2411.

AUTHORITY: section 135.719, RSMo Supp. 2021, and section 536.023, RSMo 2016. Original rule filed Jan. 26, 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 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 Office of the State Treasurer, Harry S. Truman State Office Building, PO Box 210, Jefferson City, MO 65102, or via email at info@treasurer.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 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 5—Missouri Empowerment Scholarship
Accounts Program**

PROPOSED RULE

15 CSR 50-5.020 Missouri Empowerment Scholarship Accounts Program

PURPOSE: This rule establishes procedures for the operation of the Missouri Empowerment Scholarship Accounts Program (the program), specifies responsibilities of the treasurer in administering and monitoring the program, describes the rights and responsibilities of the treasurer, his or her staff, educational assistance organizations, parents, beneficiaries, and any third party designated by the treasurer to carry out services under the program, and is intended to ensure the program conforms with federal and state statutes and regulations.

(1) Definitions.

(A) Existing Missouri Definitions. The following terms, as used in this rule, are defined in section 135.712, RSMo: educational assistance organization, parent, program, scholarship account, taxpayer. The following terms, as used in this rule, are defined in section 166.700, RSMo: curriculum, district, private school, qualified school, qualified student. The following term, as used in this rule, is

defined in section 135.715, RSMo: qualifying contribution.

(B) Additional Definitions. The following definitions shall also apply to the following terms as they are used in this rule:

1. "501(c)(3) organization" means an organization described in section 501(c)(3) of the *Internal Revenue Code* and exempt from taxation under section 501(a) of the *Internal Revenue Code*;

2. "Ownership" means the authority to act on behalf of the qualified student and make decisions regarding the qualified student's scholarship account;

3. "Parent" means a parent, as that term is defined in section 135.712.2(2), RSMo, who has entered into a written participation agreement with an educational assistance organization for the payment of educational expenses on behalf of a qualified student;

4. "Person" means any individual, estate, association, trust, partnership, limited liability company, corporation, the state of Missouri or any department thereof, or any political subdivision of the state of Missouri;

5. "School year" means the period that commences on the first day of July and ends on the thirtieth day of the following June;

6. "Semester" means a half-year term of a school year, no less than twelve (12) weeks in duration;

7. "State fiscal year" means the period that commences on the first day of July and ends on the thirtieth day of the following June;

8. "Statutes" means sections 135.712 through 135.719, RSMo, and sections 166.700 through 166.720, RSMo;

9. "Tax credits" means Missouri Empowerment Scholarship Accounts Program tax credits authorized under the program; and

10. "Taxpayer" means the entity or individual that makes a qualifying contribution for purposes of claiming a tax credit.

(2) Purpose. The purpose of the program is to promote educational opportunities and improve the quality of educational services to ensure all children receive the high-quality education to which they are entitled.

(3) Program Administration and Management. The program shall be administered and managed in compliance with the statutes and promulgated rules. Procedures and forms for use in the administration and management of the program shall be subject to the approval of the treasurer and updated from time to time. If the treasurer designates a third party to assist or act with respect to the administration and management of the program, the references herein to the treasurer shall govern such a designee.

(4) Qualified Schools.

(A) All schools other than homeschools. A public school, charter school, private school, or a public or private virtual school, shall satisfy the following requirements to be considered a qualified school:

1. Full accreditation by the Department of Elementary and Secondary Education or a nationally recognized education accrediting association. A list of approved nationally recognized education accrediting associations will be made available on the treasurer's official website; and

2. Approval from one or more certified education assistance organizations.

(B) Home schools. Any prospective student that will attend a home school, as defined in section 167.031, RSMo, shall submit to an educational assistance organization as part of his or her completed qualified student application a home school certification application. In addition to certifying that the home school complies with all provisions found in section 167.031.2(1), RSMo, the home school shall certify that it will:

1. Comply with the anti-discrimination provisions of 42 U.S.C. section 2000d;

2. Agree to not share, refund, or rebate any Missouri Empowerment Scholarship account funds with the parent or qualified student in any manner;

3. Submit a proposed curriculum plan;

4. Submit background checks for every adult who resides in the home school;

5. When requested, produce the records required to be maintained under section 167.031.2(2)(a), RSMo; and

6. Provide any other information as requested by the treasurer.

A. Within fifteen (15) days of receipt of a completed qualified student application and home school certification, the educational assistance organization shall provide the treasurer an initial approval in accordance with the criteria set forth above, unless granted an extension by the treasurer or the educational assistance organization determines a denial is necessary.

B. Within fifteen (15) days of receipt of a home school certification that has received initial approval from an educational assistance organization, the treasurer shall notify the parent and the educational assistance organization that the home school certification application has received final approval or denial.

(5) Information Sharing with the Department of Elementary and Secondary Education. The treasurer and educational assistance organizations are required to provide necessary information to the Department of Elementary and Secondary Education (DESE) to allow federal and state aid to continue to the school in the qualified student's resident school district previously attended. An educational assistance organization shall provide all approved eligible student applications to DESE within forty-five (45) days of approval. This provision terminates on July 1, 2027.

(6) Violations of Program Provisions. If the treasurer determines that any parent, eligible student, or vendor has committed an intentional program violation consisting of any misrepresentation or other act that materially violates any law or promulgated rule, the treasurer may disqualify the offending party from the program. In such a case, the treasurer shall notify the parent, eligible student, or vendor in writing of the grounds for the proposed disqualification and provide the party an opportunity to respond to the allegations in writing, or, upon request, through a hearing conducted in accordance with the provisions of Chapter 536, RSMo. A parent, eligible student, or vendor may appeal the administrative hearing commission's decision to the circuit court of the county in which the student resides. Disqualification of a parent, eligible student, or vendor by the treasurer shall not be a prerequisite nor a substitute for any other civil or criminal causes of action to which such party may otherwise be subject but is in addition to such possible remedies. Any information obtained or compiled by the treasurer in determining whether to disqualify a parent, eligible student, or vendor may be disclosed to appropriate law enforcement agencies, in any investigation, action, or proceeding, civil or criminal, brought by a governmental agency to enforce the laws of this state, except for the treasurer's work product, upon court order in any action or proceeding where such information is material to an issue in the action or proceeding. After a twelve (12) month waiting period immediately following a disqualification, any parent, eligible student, or vendor may thereafter re-apply to participate in the program in accordance with the applicable laws governing eligibility and participation in the program. Any funds remaining in the scholarship account of a parent or eligible student who has been disqualified from the program shall be returned to the educational assistance organization to be redistributed to other qualified students for scholarship accounts.

(7) Severability. If any provision of this rule, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this rule which can be given effect without the invalid provision or application, and to that end, the provisions of this rule are severable.

AUTHORITY: section 135.719, RSMo Supp. 2021. Original rule filed Jan. 26, 2022.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions seventy-six thousand one hundred fifty-five dollars (\$76,155) 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 Office of the State Treasurer, Harry S. Truman State Office Building, PO Box 210, Jefferson City, MO 65102, or via email at info@treasurer.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 15 – Elected Officials
- Division Title:** Division 50 – Treasurer
- Chapter Title:** Chapter 5 - Missouri Empowerment Scholarship Accounts Program

Rule Number and Name:	15 CSR 50-5.020 Missouri Empowerment Scholarship Accounts Program
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State Treasurer’s Office	\$76,155

III. WORKSHEET

N/A

IV. ASSUMPTIONS

This proposed rule establishes procedures for the operation of the Missouri Empowerment Scholarship Accounts Program, specifies responsibilities of the treasurer in administering and monitoring the program, describes the rights and responsibilities of the treasurer, his or her staff, educational assistance organizations, parents, beneficiaries, and any third party designated by the treasurer to carry out services under the program, and is intended to ensure the program conforms with federal and state statutes and regulations. These procedures are estimated to create of cost of adding one full-time employee to the State Treasurer’s Office: \$76,155.

Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 5—Missouri Empowerment Scholarship
Accounts Program

PROPOSED RULE

15 CSR 50-5.030 Tax Credit Program

PURPOSE: This rule establishes procedures for administration of the Missouri Empowerment Scholarship Accounts Program (the program) tax credits to enable taxpayers to make private, voluntary contributions to educational assistance organizations in order to promote improvement of the quality of education in this state, and specifies responsibilities of the treasurer and educational assistance organizations in administering and monitoring the tax credits.

(1) Definitions.

(A) Existing Missouri Definitions. The following terms, as used in this rule, are defined in section 135.712, RSMo: educational assistance organization, parent, program, scholarship account, taxpayer. The following terms, as used in this rule, are defined in section 166.700, RSMo: curriculum, district, private school, qualified school, qualified student. The following term, as used in this rule, is defined in section 135.715, RSMo: qualifying contribution.

(B) Additional Definitions. The following definitions shall also apply to the following terms as they are used in this rule:

1. “501(c)(3) organization” means an organization described in section 501(c)(3) of the *Internal Revenue Code* and exempt from taxation under section 501(a) of the *Internal Revenue Code*;

2. “Annual inflation adjusted cap” means the cumulative amount of tax credits that may be allocated to all taxpayers in any one (1) calendar year after the annual tax credit amount is annually adjusted by the treasurer on December 1, to be effective January 1 of the next calendar year, for inflation based on the consumer price index for all urban consumers for the Midwest region, as defined and officially recorded by the United States Department of Labor or its successor, such annual increase shall cease when the amount of tax credits reach fifty million dollars;

3. “Annual tax credit amount” means, for any state fiscal year, the sum of the amount of tax credits approved under section 33.282.3, RSMo, which are approved for a taxpayer whose taxable year begins on or after January 1 of the calendar year preceding the start of the applicable state fiscal year;

4. “Annual total grant amount” means, for any school year the sum of the amount of scholarship account payments distributed to the account of a qualified student, not to exceed a total amount equal to the state adequacy target;

5. “Household income” has the same meaning as the term “income” as defined in the income eligibility guidelines for free and reduced price meals under the National School Lunch Program in 7 CFR part 210 as published in the *Federal Register* by the United States Department of Agriculture;

6. “Owner or operator” includes:

A. A president, officer, or director of an educational assistance organization or a person with equivalent decision-making authority over an educational assistance organization; and

B. An owner, operator, superintendent, or principal of an eligible qualified school or a person with equivalent decision-making authority over an eligible qualified school;

7. “State adequacy target” has the same meaning as defined in section 163.011, RSMo, and calculated by the Department of Elementary and Secondary Education; and

8. “Taxpayer” means any taxpayer as defined in section 135.712.2(7), RSMo, who applies to make a qualifying contribution to a certified educational assistance organization and reserve a tax credit for such contribution.

(2) Annual Adjustments. Beginning December 1, 2022, the treasurer shall adjust the cumulative amount of tax credits that may be allocated to all taxpayers in any one (1) calendar year based on the most recently released consumer price index for all urban consumers for the Midwest region, as defined and officially recorded by the United States Department of Labor or its successor. The adjustment shall occur annually on December 1 and all such annual adjustments shall be effective January 1 of the next calendar year. Such annual adjustments shall cease when the amount of tax credits reaches fifty (50) million dollars annually.

(3) Allocation of Tax Credits.

(A) Initial Allocation. For tax year 2022, an educational assistance organization shall request an initial allocation of tax credits as part of the application for certification to participate in the program. For all subsequent tax years, an educational assistance organization shall request an initial allocation of tax credits by the December 1 prior to the applicable tax year. The treasurer shall review the requests and provide initial allocations by January 1 of the applicable tax year.

(B) Reallocation. From January 1 to December 31 of a calendar year, the treasurer may reallocate any amounts made available that are not obligated or expended, as determined by the treasurer.

(4) Application Process. Beginning July 1, 2022, and January 1 every year thereafter, a taxpayer may apply for a tax credit by visiting the treasurer’s official website and completing the online application for tax credit allocation for contributions to an educational assistance organization.

(A) Application for Tax Credit Reservation.

1. Application. The online application shall require a taxpayer to provide the following:

A. The taxpayer’s name, address, and Social Security number or individual taxpayer identification number;

B. The name of the certified educational assistance organization to which the taxpayer intends to contribute;

C. The amount the taxpayer intends to contribute; and

D. Any other information required by the treasurer.

2. Confirmation. Once this application is completed, a taxpayer shall receive an application confirmation that can be printed. The application confirmation only confirms an application for reservation of tax credits; it does not authorize the issuance or use of a tax credit.

3. Donation. The taxpayer shall present the application confirmation and specified contribution to the educational assistance organization designated on the application.

4. Time Limits. A taxpayer has thirty (30) business days after receipt of an application confirmation to make the qualifying contribution to the designated educational assistance organization. After thirty (30) business days, the application expires.

5. Application Review. The educational assistance organization shall submit to the treasurer documentation verifying each qualifying contribution received including the application confirmation and proof of the transfer of funds. The treasurer shall review the application and supporting documentation and if the taxpayer is eligible, shall approve the request on a first come, first served basis.

6. Approval. The treasurer shall send the educational assistance organization a written receipt (tax credit certificate) evidencing the tax credit has been approved. If an application is not approved, the treasurer shall send a written notice that sets forth the reason the tax credit allocation application could not be approved. The educational assistance organization shall provide the receipt to the taxpayer.

(B) Request for Rescission. A taxpayer may apply to the treasurer to rescind all or part of a tax credit allocation for a contribution to certified educational assistance organization. A taxpayer shall submit a separate application for each tax credit allocation they request to rescind.

1. Rescission Application. An application for rescission of a previously granted tax credit allocation shall include the following:

A. The confirmation number from the original application for

an allocation of tax credit;

B. The amount the taxpayer requests to rescind in total;

C. The individual taxpayer identification number or Social Security number associated with the original application;

D. The name of the educational assistance organization to which the taxpayer originally intended to make their contribution;

E. Whether the contribution was made to the educational assistance organization; and

F. Any other information required by the treasurer.

2. Confirmation Receipt. Once this application for rescission is completed, a taxpayer shall receive a confirmation. The confirmation only confirms the treasurer received the application, it does not approve the application for rescission of a previously approved tax credit allocation.

3. Application Review. The treasurer shall review the application for rescission and if the taxpayer is eligible shall approve the request on a first come, first served basis.

4. Approval. The treasurer will send written correspondence explaining the approved rescinded amount or the reason the application could not be approved. The treasurer will approve the application unless the taxpayer has claimed the credit amount to be rescinded on a previously filed tax return, the credit allocation period for a particular calendar year is closed, or the contribution has already been designated by the educational assistance organization to fund a scholarship account. No requests for rescission shall be made or considered after November 1.

(5) Severability. If any provision of this rule, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this rule which can be given effect without the invalid provision or application, and to that end, the provisions of this rule are severable.

AUTHORITY: section 135.719, RSMo Supp. 2021. Original rule filed Jan. 26, 2022.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions twenty-four million seventy-six thousand one hundred fifty-five dollars (\$24,076,155) 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 Office of the State Treasurer, Harry S. Truman State Office Building, PO Box 210, Jefferson City, MO 65102, or via email at info@treasurer.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 15 – Elected Officials
- Division Title:** Division 50 – Treasurer
- Chapter Title:** Chapter 5 - Missouri Empowerment Scholarship Accounts Program

Rule Number and Name:	15 CSR 50-5.030 Tax Credit Program
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State Treasurer’s Office	\$76,155
EAO scholarships/administration	\$24,000,000

III. WORKSHEET

N/A

IV. ASSUMPTIONS

This proposed rule establishes procedures for administration of the Missouri Empowerment Scholarship Accounts Program tax credits and specifies responsibilities of the treasurer and educational assistance organizations in administering and monitoring the tax credits. The cumulative amount of tax credits that may be allocated to all taxpayers cannot exceed \$25 million in the first year of the program, and shall be adjusted annually by the State Treasurer based on the CPI for all urban consumers in the Midwest region every year thereafter. In addition, the amount that shall be deposited into the Missouri Empowerment Scholarship Accounts Fund for administrative expenses is four percent of all annual contributions, which would total \$1 million during the first year if the maximum amount of contributions are received. These procedures are estimated to create of cost of adding one full-time employee to the State Treasurer’s Office: \$76,155.

Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 5—Missouri Empowerment Scholarship
Accounts Program

PROPOSED RULE

15 CSR 50-5.040 Audits and Reporting Requirements

PURPOSE: This rule establishes procedures for the audit and reporting requirements of the Missouri Empowerment Scholarship Accounts Program (the program) and specifies responsibilities of the treasurer, his or her staff, educational assistance organizations, parents, beneficiaries, and any third party designated by the treasurer to carry out services under the program, and is intended to ensure the program conforms with state statutes and promulgated rules. The treasurer has authority to establish standards and reporting requirements for audits performed on certified educational assistance organizations. This rule sets forth requirements to be met directly by the certified educational assistance organizations and the standards for the auditing and financial reporting.

(1) Definitions.

(A) Existing Missouri Definitions. The following terms, as used in this rule, are defined in section 135.712, RSMo: educational assistance organization, parent, program, scholarship account, taxpayer. The following terms, as used in this rule, are defined in section 166.700, RSMo: curriculum, district, private school, qualified school, qualified student. The following term, as used in this rule, is defined in section 135.715, RSMo: qualifying contribution.

(B) Additional Definitions. The following definitions shall also apply to the following terms as they are used in this rule:

1. "Division" means the treasurer's office division of program administration; and
2. "School year" means the period that commences on the first day of July and ends on the thirtieth day of the following June.

(2) Audits.

(A) Annual Audited Financial Statements.

1. Annual Audited Financial Statements. The annual financial statements audit required by section 135.714, RSMo, shall be submitted to the treasurer no later than July 1, or within six (6) months after the close of the educational assistance organization's fiscal year, unless granted an extension by the treasurer and shall include the following information:

A. The name and address of the educational assistance organization;

B. Annual financial accounting to show:

(I) One hundred percent (100%) of its revenues from interest or investments is spent on scholarship accounts; and

(II) Marketing and administrative expenses do not exceed the thresholds established in section 135.714.1(5)(c), RSMo;

C. An auditor's report on program compliance, based on a random sampling of accounts, with regard to use of student account funds for eligible program expenses; and

D. Any other information as specified by the treasurer.

2. The following information shall be submitted by July 1, regardless of an educational assistance organization's fiscal year, for the preceding calendar year, unless granted an extension by the treasurer:

A. The name and address of the educational assistance organization;

B. The name and address of each qualified student for whom a parent opened a scholarship account with the organization;

C. The total number and total dollar amount of contributions received during the previous calendar year;

D. The total number and total dollar amount of scholarship accounts opened during the previous calendar year;

E. The total dollar amount spent on marketing and administrative expenses during the previous calendar year;

F. The total dollar amount remitted to the division for administrative costs during the previous calendar year;

G. The total dollar amount of revenue from interest or investments during the previous calendar year; and

H. Any other information as specified by the treasurer.

3. Requirements for Educational Assistance Organizations.

A. The educational assistance organization is responsible for preparing and providing financial information to be included in the annual financial statements audit. The educational assistance organization shall maintain adequate accounting records for that purpose.

B. The educational assistance organization shall engage an independent auditor to conduct the audit. The treasurer does not recommend, select, or approve the educational assistance organization's auditor or the auditor's fee, except as provided in 15 CSR 50-5.040(2)(A)3.C. The educational assistance organization is responsible for fulfilling all contractual obligations with the auditor, including payment of all earned fees.

C. The educational assistance organization shall file a copy of the completed audit report with the treasurer within six (6) months after the close of the educational assistance organization's fiscal year, unless granted an extension by the treasurer. If any audit report fails to comply with promulgated rules, the treasurer shall notify the educational assistance organization and specify the defects. If the specified defects remain uncorrected after ninety (90) days from the date of the treasurer's notice to the organization, or if a copy of the required audit report has not been received by the treasurer within the specified time, the treasurer shall make, or cause to be made, the required audit at the expense of the educational assistance organization.

4. Standards for Auditing and Financial Reporting.

A. The independent auditor shall meet all requirements of Chapter 326, RSMo, and the code of professional ethics and rules of conduct promulgated by the Missouri State Board of Accountancy.

B. The audit shall conform to generally accepted auditing standards (GAAS) promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants.

C. All audits shall conform to the standards (hereafter referred to as "generally accepted government auditing standards") established by the Comptroller General of the United States and applicable to financial audits of government entities, programs, activities, and functions.

D. The contents of the financial statement audit report shall be presented in conformity with generally accepted accounting principles. If the financial statement audit report is not presented in conformity with generally accepted accounting principles, then the independent auditor shall make appropriate audit report modifications and disclosures. The auditor shall certify the report is free of material misstatements.

E. Nothing in the rules promulgated for audits of certified educational assistance organizations shall be construed as restricting, limiting, or relieving the independent auditor of his or her professional judgment or responsibility.

(B) Use of Account Funds.

1. Account funds may only be used for the qualified student for whom the account was awarded.

2. Use of account funds shall be limited to qualified expenses as defined in 166.705.1(4), RSMo.

3. The treasurer or a third party with whom the treasurer contracts shall establish and maintain a database of approved vendors and expenses. Similar expenses by similarly situated account holders shall be treated in the same manner. This section does not create authorization for an account holder to expend funds in a manner not permitted by statute.

4. Use of account funds must be substantiated by documentation, in a format acceptable to the treasurer.

5. The treasurer reserves the right to make final determination

with regard to eligible use of account funds.

(C) Reviews of Accounts.

1. Procedures for conducting exams on use of accounts funds. The treasurer may conduct or contract for review of expenses pursuant to this section to ensure program funds are used only for qualified expenses, and shall request periodic reports on the use of account funds from the educational assistance organization or a designated third party.

2. Procedures for conducting random reviews of accounts. The treasurer may randomly, through an in-person site visit or an electronic request, sample the accounts held by an educational assistance organization. The sampling of accounts may include but is not limited to a review of student records and expenses, tracking mechanisms for reporting student outcomes, and contribution tracking.

3. Procedures for conducting quarterly reviews of accounts. The treasurer shall provide to the educational assistance organization quarterly report forms for the purpose of reporting program performance and financial data. The educational assistance organization is responsible for preparing and submitting the quarterly program reports to the treasurer within thirty (30) days after each quarter's end. The treasurer shall review quarterly program reports within thirty (30) days of receipt and conduct any follow-up or remediation actions as necessary.

4. Procedures for conducting annual reviews of accounts. The treasurer shall review the Annual Statutory Audit submitted by the educational assistance organization for compliance with program requirements and performance.

(D) 2023-2024 Audit Required by Statute. Beginning with the 2023-2024 school year, the treasurer shall conduct or contract for annual audits of Missouri Empowerment Scholarship Accounts to verify compliance with statutory requirements of the program. This audit shall conform to the standards for auditing of governmental organizations, programs, activities, and functions established by the comptroller of the United States.

(3) Reporting Requirements.

(A) Annual Reports. The following annual reports, unless otherwise specified, shall be due on August 1, for the period of July 1 through June 30 immediately preceding:

1. Results from annual state achievement tests or nationally norm-referenced tests for grades requiring testing under the statewide assessment system set forth in section 160.518, RSMo;

2. Student information that would allow the treasurer to aggregate data by grade level, gender, family income level, and race;

3. Results from the annual parental satisfaction survey, including information about the number of years the parent's child has participated in the program;

4. Rates of high school graduation; and

5. To the extent the data is provided or otherwise available to the educational assistance organization, rates of college attendance and college graduation for participating students.

(B) Monthly. Remittance Report. An educational assistance organization shall submit a remittance report to the treasurer no later than the 15th of each month following a month in which the educational assistance organization received a contribution from a taxpayer. The remittance report shall include 1) a listing of all donors for which the educational assistance organization has submitted the donor's documentation to claim the credit; and 2) four percent (4%) of the total qualifying contributions received by the educational assistance organization for that calendar month to be deposited in the Missouri Empowerment Scholarship Accounts fund. Money shall be remitted by Automated Clearing House (ACH) transfer or check made payable to the treasurer and delivered to the division when the report is filed.

(C) Quarterly. Quarterly Report. An educational assistance organization shall submit a quarterly report, which shall include the number of scholarships awarded, the dollar amount of scholarships awarded, the dollar amount of funds raised for tax credits, and any other information deemed necessary by the treasurer.

(D) Statutory Report. On July 1, 2027, the treasurer shall issue a report on the state of the program. The report shall include information regarding the finances of the educational assistance organizations and educational outcomes of qualified students. This report shall be posted on the treasurer's official website.

(4) Online Anonymous Fraud Reporting Service. Beginning July 1, 2022, the treasurer shall create an online anonymous fraud reporting service to accept any reports of fraud pertaining to the program. Such anonymous fraud reporting service shall be located on the treasurer's official website and shall transmit anonymous reports to the treasurer via web interface.

(5) Dedicated Anonymous Telephone Hotline. Beginning July 1, 2022, the treasurer shall have a dedicated anonymous telephone hotline for reporting any fraud related to the program. Such hotline shall be toll-free and shall not permit the tracing of the caller.

(6) Test Results and Graduation Rates. Beginning July 1, 2025, the treasurer shall annually post on the treasurer's official website the following information:

(A) Student test results and associated learning gains. These findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race; and

(B) Graduation rates.

(7) Severability. If any provision of this rule, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this rule which can be given effect without the invalid provision or application, and to that end, the provisions of this rule are severable.

AUTHORITY: section 135.719, RSMo Supp. 2021. Original rule filed Jan. 26, 2022.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions eight hundred forty-seven thousand six hundred eighty-seven dollars (\$847,687) 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 Office of the State Treasurer, Harry S. Truman State Office Building, PO Box 210, Jefferson City, MO 65102, or via email at info@treasurer.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 15 – Elected Officials
- Division Title:** Division 50 – Treasurer
- Chapter Title:** Chapter 5 - Missouri Empowerment Scholarship Accounts Program

Rule Number and Name:	15 CSR 50-5.040 Audits and Reporting Requirements
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State Treasurer’s Office	\$847,687

III. WORKSHEET
N/A

IV. ASSUMPTIONS

This rule establishes procedures for the audit and reporting requirements of the Missouri Empowerment Scholarship Accounts Program and specifies responsibilities of the treasurer, his or her staff, educational assistance organizations, parents, beneficiaries, and any third party designated by the treasurer to carry out services under the program. In addition, this rule sets forth requirements to be met directly by the certified educational assistance organizations and the standards for the auditing and financial reporting. These procedures are estimated to create of cost of adding one full-time employee to the State Treasurer’s Office: \$76,155. The amount that shall be deposited into the Missouri Empowerment Scholarship Accounts Fund for the State Treasurer’s administrative expenses is four percent of all annual contributions, which would total \$1 million during the first year if the maximum amount of contributions are received. When accounting for the other two full-time employees necessitated by proposed rules 15 CSR 50-5.020 and 15 CSR 50-5.030, there is a net cost of \$771,532.

Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 5—Missouri Empowerment Scholarship
Accounts Program

PROPOSED RULE

15 CSR 50-5.050 Educational Assistance Organizations

PURPOSE: This rule establishes procedures and requirements for educational assistance organizations participating in the Missouri Empowerment Scholarship Accounts Program (the program) and is intended to ensure that the program conforms to state statutes and regulations.

(1) Certification. Any non-profit organization registered in this state that is exempt from federal taxation under the *Internal Revenue Code* may apply with the treasurer to be a certified educational assistance organization.

(A) Annual Application Deadline. The application deadline for a certification for a school year, as that term is defined in section 160.041.1, RSMo, shall be published annually by the treasurer.

(2) Requirements.

(A) Qualifications of Educational Assistance Organizations. The following are the qualifications and requirements necessary for an educational assistance organization to be eligible for certification by the treasurer to participate in the program:

1. An educational assistance organization shall demonstrate it is exempt from federal income tax under Section 501(c)(3) of the *Internal Revenue Code* of 1986, as amended;

2. No educational assistance organization that has been through a Chapter 7 or Chapter 11 bankruptcy in the seven (7) years immediately preceding application for certification shall be qualified to be certified as an educational assistance organization;

3. Financial viability shall be demonstrated;

4. An educational assistance organization shall not have a president, officers, or director who owns or operates a qualified school that is participating in the program;

5. An educational assistance organization shall not provide a scholarship account to a child of a member of its board including the president, officers, director, or an employee of the educational assistance organization;

6. An educational assistance organization shall comply with the provisions of section 285.530, RSMo; and

7. Any other qualifications or requirements the treasurer determines are necessary to maintain the integrity of the program.

(3) Program Participation.

(A) Qualified Student Eligibility. A Missouri resident who is a qualified student designated as a beneficiary in a participation agreement may be a recipient of an Empowerment Scholarship Account grant. A parent that obtains a scholarship account shall provide the valid Social Security number or individual taxpayer identification number and address in the United States of the beneficiary of the applicable scholarship account. A qualified student shall only be the beneficiary of one (1) scholarship account administered by the program.

1. Within thirty (30) days of the United States Department of Agriculture publishing in the *Federal Register* the income eligibility guidelines to be used in determining eligibility for free and reduced price meals under the National School Lunch Program and the School Breakfast Program, the treasurer shall publish the program's income eligibility guidelines on the treasurer's official website.

2. Household income shall be determined using the eligibility criteria for free and reduced price meals under the National School Lunch Program and the School Breakfast Program.

3. The treasurer shall maintain guidelines for determining and

documenting household income.

(B) Parent Eligibility. A parent may be any individual who 1) is a Missouri resident, 2) submits to an education assistance organization a completed participation agreement, and 3) otherwise meets the qualifications set forth in Missouri law and promulgated rules governing the program. A parent that applies for a scholarship account shall provide the valid Social Security number or individual taxpayer identification number and address in the United States of the qualified student.

(C) Participation Agreements. To participate in the program, a prospective parent shall submit a completed qualified student application and participation agreement to an educational assistance organization that has approved the qualified school the student will attend by the deadline established by the treasurer. Educational assistance organizations shall accept rolling admissions into the program unless a deadline is otherwise established by the treasurer. Within thirty (30) days of receipt of a completed qualified student application and participation agreement, the educational assistance organization shall notify the parent in writing that the application is approved or denied in accordance with the criteria set forth in section 166.700(8), RSMo, unless granted an extension by the treasurer. The participation agreement shall provide that the parent (and any successor account owner) will retain oversight over payments made under the program and for the benefit of the beneficiary designated by such parent (or the successor account owner). Only one (1) parent and one (1) beneficiary is permitted per scholarship account. Each participation agreement shall provide that the participation agreement may be cancelled upon the terms and conditions set forth therein.

1. Agreement. The treasurer shall prescribe the form and content of the program participation agreement.

2. Withdrawal. A parent may cancel a participation agreement and withdraw a qualified student from the program at any time by submitting to the educational assistance organization a written notice to terminate the participation agreement in such form as the treasurer may specify from time to time. A parent and a beneficiary of a cancelled participation agreement shall continue to be subject to the terms and conditions of the program during any term of schooling in which tuition was paid for using scholarship grant funds. The qualified student's scholarship account shall be closed and any remaining funds shall be returned to the educational assistance organization for redistribution to other qualified students.

3. Copy of Agreement to Parent. Upon request by a parent, the educational assistance organization shall provide the parent with a copy of the participation agreement executed by the parent, mailed within ten (10) business days of receipt of the parent's request.

4. FERPA and Age 18. Any eligible student that attains the age of eighteen (18) while still enrolled in qualified school that is subject to the provisions of the Family Educational Rights and Privacy Act (FERPA) shall provide any school records to an educational assistance organization or the treasurer when requested. Failure of the eligible student to provide school records as requested by an educational assistance organization or the treasurer shall result in the immediate suspension of the eligible student's scholarship account and may result in the eligible student being required to reimburse the educational assistance organization for any program funds expended for the benefit of the eligible student during the term in which the scholarship was suspended. Any such funds that are reimbursed to an educational assistance organization shall be redistributed to other qualified students.

(D) Limitation on Additional Scholarships for Newly Qualified Students. In the event the amount appropriated by the general assembly in any fiscal year for pupil transportation pursuant to section 163.161, RSMo, is less than \$111,562,312, no additional scholarships for newly qualified students shall be awarded. Students who received a scholarship in a previous year shall be eligible to apply for renewal. If the general assembly does not appropriate the required amount, the treasurer shall notify participating educational assistance organizations no later than June 1 that no newly qualified students

shall receive a scholarship award for the upcoming fiscal year.

(E) Background Checks.

1. An educational assistance organization shall conduct a review of criminal history records maintained by the Missouri State Highway Patrol in the Missouri criminal records repository of all its employees and exclude from employment or governance any individual who might reasonably pose a risk to the appropriate use of contributed funds. Any such criminal background check shall be provided to the treasurer upon request.

2. An educational assistance organization shall conduct a review of criminal history records maintained by the Federal Bureau of Investigation of all operators, directors, executives, and board members and exclude from employment or governance any individual who might reasonably pose a risk to the appropriate use of contributed funds. Any such criminal background check shall be provided to the treasurer upon request.

(F) Investment Policy. When investing any contributions received from the program, an educational assistance organization shall adhere to the written Missouri Empowerment Scholarship Account investment policy prepared and maintained by the treasurer.

(G) Financial Accountability and Viability.

1. Surety Bond. An educational assistance organization shall file with the treasurer, within thirty (30) days of notification of certification and allocation, unless granted an extension by the treasurer, a surety bond with the Missouri State Treasurer named as obligee in an amount equal to the aggregate amount of contributions expected to be received during the school year, or pledge collateral in an amount determined by the treasurer to demonstrate the financial viability of the organization.

2. Annual Audited Financial Statements. An educational assistance organization shall submit to the treasurer annual audited financial statements, which have been audited by a certified public accountant within six (6) months of the end of the educational assistance organization's fiscal year, unless granted an extension by the treasurer. The auditing certified public accountant shall certify the report is free of material misstatements or misrepresentations.

(H) Testing of Students. Educational assistance organizations shall ensure qualified students take the state achievement tests or nationally norm-referenced tests that measure learning gains in math and English language arts, and provide for value-added assessment, in grades that require testing under the statewide assessment system set forth in section 160.518, RSMo. Costs of this testing requirement may be covered by the scholarships distributed by the educational assistance organization. Beginning with the first year of testing and on an annual basis thereafter, the educational assistance organization shall provide the parents of each student who was tested and the treasurer a copy of the test results.

(I) Reports and Audits. Educational assistance organizations certified by the treasurer to participate in the program shall submit all reports and audits required by state statutes and promulgated rules.

(J) Parental Satisfaction Survey. No later than March 1, an educational assistance organization shall distribute the annual parental satisfaction survey to all parents with whom the organization has a current participation agreement. The treasurer shall prepare and maintain the form of the annual parental satisfaction survey which shall include questions written to obtain the following information:

1. A parent's level of satisfaction with the child's academic achievement, including academic achievement at the school the child attends through the scholarship program versus academic achievement at the school previously attended;

2. A parent's level of satisfaction with school safety at the school the child attends through the scholarship program versus safety at the school previously attended; and

3. The treasurer shall have discretion to include any other written questions in the parental survey as necessary.

(K) Excess Funds. Any funds remaining after an educational assistance organization distributes scholarships and takes statutory administrative and marketing fees shall be used for scholarship accounts.

(L) Readiness. Prior to being allocated any tax credits, an educational assistance organization must demonstrate to the treasurer's satisfaction that it is able to begin granting scholarships for the upcoming school year.

(4) Scholarships. All grants to scholarship accounts shall be in the form of a deposit by an educational assistance organization into the scholarship account. The maximum amount which may be contributed annually by an educational assistance organization with respect to a beneficiary shall be established by the treasurer, but in no event shall it exceed a total annual grant amount equal to the state adequacy target as defined in section 163.011, RSMo, and calculated annually by the Department of Elementary and Secondary Education.

(5) Changes of Designated Parent. A parent may transfer ownership of an account to another parent eligible to oversee the account under the provisions of the statute and this rule, and upon receipt of a request for change of account ownership that satisfies the criteria set forth in this section, the transferee shall be considered the parent for all purposes related to the program.

(A) General Rule. Any such change of account ownership shall be effective provided the transfer completed by the parent 1) is irrevocable, 2) transfers all oversight, 3) the transferee satisfies the definition of "parent" as that term is defined in section 135.712.2(2), RSMo, and 4) is submitted to the educational assistance organization on a change of account ownership form in such form as the treasurer may specify from time to time.

(B) Designation of Successor Account Authority. Any parent may designate a successor account owner for his or her account, to become the sole authority of the account automatically upon the death of such parent. Prior to the initial action taken by the successor account owner following the death of the parent, the successor account owner shall provide the educational assistance organization a certified copy of a death certificate sufficiently identifying said deceased parent by name and Social Security number or taxpayer identification number, or such other proof of death as is recognized under applicable law. The successor account owner shall provide any other documentation requested to establish he or she satisfies the definition of "parent" as that term is defined in section 135.712.2(2), RSMo.

(6) Payment of Expenses.

(A) Qualified Expenses. A parent may request a qualified withdrawal from his or her account by submitting a completed request for a qualified withdrawal to the educational assistance organization in such form as the treasurer may specify from time to time. The treasurer shall maintain a database of approved expenses for the current and upcoming fiscal years. The treasurer shall make the database available to parents and educational assistance organizations.

(B) Limitation on Expenses.

1. The annual expenses for any one category set forth in section 166.7005.1(4)(b)(1), RSMo, may be limited by the treasurer from time to time. If the treasurer limits the annual expenses for any one category, those limitations shall be communicated to the educational assistance organizations no later than July 1 for the following school year.

2. Mileage Limitation. Mileage reimbursement shall not exceed the state mileage reimbursement rate authorized by section 33.095, RSMo.

3. Computer Devices. Expenses for computer hardware and other technological devices shall be limited to a single computer device per student every three (3) years, unless otherwise pre-approved by the educational assistance organization as a necessary educational resource including assistive devices and accessible educational hardware and materials.

4. Specialized After-School Education Program. A specialized after-school education program is any after-school program that

provides services during non-school hours to support student learning, including tutoring, homework help, and other academic enrichment, such as hands-on math, reading/language arts, and science programs. Specialized after-school education programs do not include child care provided by a child-care facility, as that term is defined in section 210.201(3), RSMo.

(7) Distribution Limitations. No distributions shall be made within thirty (30) days of receipt by the board of a completed change of parent form or request to change the mailing address of the parent, unless the current parent's signature is signature guaranteed on the request.

(8) Costs of Administration. All costs of administration of the program shall be borne by the educational assistance organizations and the treasurer's office.

(9) Funds for the Administration of the Program.

(A) Educational Assistance Organization Administration Costs. An educational assistance organization may withhold from contributions an amount to cover the costs of administering the program, up to the maximum amounts authorized for marketing and administrative expenses in section 135.714.1(5)(c), RSMo. All remaining funds shall be made available to qualified students for scholarship accounts.

(B) Treasurer Administration Costs. An educational assistance organization shall submit a remittance report to the treasurer no later than the 15th of each month following any month in which the educational assistance organization received a contribution from one (1) or more taxpayers. The remittance report shall include 1) a copy of the treasurer approved receipt the educational assistance organization provided to each taxpayer from which it received a contribution to indicate the value of the contribution received from that taxpayer, and 2) four percent (4%) of the total qualifying contributions received by the educational assistance organization for that calendar month, to be deposited in the Missouri Empowerment Scholarship Accounts fund. Money shall be remitted by Automated Clearing House (ACH) transfer or check made payable to the Missouri State Treasurer and delivered to the treasurer's office when the report is filed.

(10) Scholarship Accounts.

(A) Scholarship Account Distributions. Scholarship account grants may be distributed either four (4) times per year or in a single lump sum at the beginning of the school year as requested by the parent of a qualified student. The annual total of all such distributions to scholarship accounts shall not exceed a total annual grant amount equal to the state adequacy target as calculated by the Department of Elementary and Secondary Education. Distributions shall be in the form of a deposit to the scholarship account of a qualified student.

(B) End of Year Balance. Any funds remaining in a qualified student's scholarship account at the end of a school year shall remain in the account to be used for qualified expenses and shall not be returned to the educational assistance organization.

(C) Separate Accounting. An educational assistance organization shall provide separate accounting for each individual scholarship account.

(11) Renewal of Scholarship Accounts. Scholarships eligible for renewal shall be renewed on or before July 1.

(12) Completion of Secondary Education. Funds remaining in a scholarship account after an eligible student has completed their secondary education shall only be used for expenses set forth in section 166.705.1(4)(g), RSMo, and shall be spent no later than June 30 immediately following such completion. Any funds remaining in a scholarship account after the June 30 immediately following a qualified student's completion of their secondary education shall be returned to the educational assistance organization to be redistributed to other qualified students for scholarship accounts.

(13) State Adequacy Target. The annual total grant amount shall not exceed an amount equal to the state adequacy target as defined in section 163.011, RSMo, and calculated by the Department of Elementary and Secondary Education. No later than November 1 of the school year prior to the school year for which it is effective, the treasurer shall publish on its website and notify educational assistance organizations of the state adequacy target for the following school year as calculated by the Department of Elementary and Secondary Education.

(14) Distribution Order. Priority must be given to eligible students in the following tiered order:

(A) Students that have an approved individualized education plan (IEP) or students living in a household whose total annual income does not exceed an amount equal to one hundred percent (100%) of the income standard used to qualify for free and reduced price lunches;

(B) Students living in a household whose total annual income does not exceed an amount equal to two hundred percent (200%) of the income standard used to qualify for free and reduced price lunches; and

(C) All other qualified students.

The treasurer shall notify all educational assistance organization when they are authorized to make distributions to eligible students in the second and third tiers.

(15) Non-Compliance or Fraud.

(A) Revocation. The treasurer may revoke the certification of any educational assistance organization that is found to be in non-compliance with applicable state laws and regulations. If the treasurer receives information, directly or indirectly, which gives the treasurer reason to believe an educational assistance organization has intentionally and substantially failed to comply with the provisions of sections 135.712 to 135.719, RSMo, and 166.700 to 166.720, RSMo, promulgated rules, or any other provision of law, the treasurer may suspend the certification of such educational assistance organization. In such a case, the treasurer shall notify the educational assistance organization in writing of the grounds for the proposed suspension of certification and provide the organization an opportunity to respond to the allegations in writing, or upon request, through a hearing conducted in accordance with the provisions of Chapter 536, RSMo. Suspension of an educational assistance organization's certification by the treasurer shall not be a prerequisite nor a substitute for any other civil or criminal causes of action to which such organization may otherwise be subject, but is in addition to such possible remedies. Any information obtained or compiled by the treasurer in determining whether to suspend a certification may be disclosed to appropriate law enforcement agencies, in any investigation, action or proceeding, civil or criminal, brought by a governmental agency to enforce the laws of this state, except for the treasurer's work product, upon court order in any action or proceeding where such information is material to an issue in the action or proceeding. After a twelve-(12-) month waiting period, any educational assistance organization whose certification has been suspended may thereafter seek to be re-certified in accordance with the applicable laws governing certification.

(B) Notification. Any educational assistance organization suspended, revoked, or otherwise barred from the program by the treasurer shall immediately notify affected parents of qualified students of the decision.

(C) Unspent Balance. Any educational assistance organization whose certification is suspended or revoked by the treasurer shall immediately return any unspent balance to the treasurer for redistribution to educational assistance organizations in good standing.

(16) Number of Certified Educational Assistance Organizations. The treasurer shall limit the number of certified educational assistance organizations to no more than ten (10) in any single school year, with

no more than six (6) having their principal place of business in any one (1) of the following entities: Greene County, Jackson County, St. Charles County, St. Louis County, or St. Louis City. An educational assistance organization will be evaluated based on experience, geographic coverage pertaining to eligible students it can serve, readiness to award scholarship grants, and the organization's anticipated administrative expenses. All decisions regarding certification are final.

(17) Severability. If any provision of this rule, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this rule which can be given effect without the invalid provision or application, and to that end, the provisions of this rule are severable.

AUTHORITY: section 135.719, RSMo Supp. 2021. Original rule filed Jan. 26, 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 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 Office of the State Treasurer, Harry S. Truman State Office Building, PO Box 210, Jefferson City, MO 65102, or via email at info@treasurer.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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.010 Definition of Terms. The department is amending the definitions of terms.

PURPOSE: The amendment updates definitions of existing terms and defines new terms.

[(1) Any definitions described in 13 CSR 15-7.005 are applicable to 13 CSR 15-4 as well as the terms defined in this rule.]

(1) Access services—A category of services which facilitates access to and utilization of other services. Access services may include, but are not limited to, transportation, outreach, case management, and information and assistance.

(2) Act—The Older Americans Act of 1965, as amended *[through December 31, 1992]*.

(4) Administration for Community Living (ACL)—An agency of the U.S. Department of Health and Human Services (HHS). ACL is structured to provide general policy coordination while retaining unique programmatic operations specific to the needs of each population it serves.

[(4)](5) Administration on Aging (AoA)—[The federal agency within] An agency within the Administration for Community

Living of the U.S. Department of Health and Human Services, [which is] charged with [the responsibility of] administering [the provisions of the Act] provisions of the Older Americans Act of 1965, as amended, with the exception of the Senior Community Service Employment Program (SCSEP).

[(5)](6) Administrative action—Any action or decision made by an owner, employee, or agent of a long-term care (LTC) facility, or by an area agency on aging or the division, which affects the provision of services to service recipients.

[(6)](7) Adequate proportion—An amount of supportive services funds determined by the state agency to be sufficient to meet the need for a given priority service in a particular planning and service area.

[(7)](8) Adult day care—[A program designed to provide care and supervision to meet the needs of functionally impaired adults for periods of less than twenty-four (24) hours but more than two (2) hours per day in a place other than the adult's own home.]As defined in 19 CSR 30-90.010.

(9) Adult(s) with disabilities—Any individual who has a mental or physical impairment that substantially limits one (1) or more of their major life activities; has a record of such impairment; or is regarded as having such an impairment.

[(8)](10) Advisory council—A council [of older individuals (including minority individuals), representatives of older individuals and local elected officials who shall advise the Area Agency on Aging on matters pertaining to development and administration of the area plan and on operations conducted under the plan.] consisting of older adults (including minority individuals and older adults residing in rural areas) who are participants or who are eligible to participate in programs administered under the Older Americans Act, family caregivers of such individuals, representatives of older adults, service providers, representatives of the business community, local elected officials, providers of veterans' health care (if appropriate), and the general public to advise continuously the area agency on aging on all matters relating to the development of the area plan, the administration of the plan, and operations conducted under the plan.

[(9)](11) Advocacy—The act of speaking or writing in support of older [persons] adults and/or [programs for] issues concerning older [persons] adults.

(12) Aging and Disability Resource Center—An entity, network, or consortium established by a state as part of the state system of long-term care, to provide a coordinated and integrated system for older adults and adults with disabilities, and the caregivers of older adults and adults with disabilities, that provides—

(A) Comprehensive information on the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care services, and federal or state programs that provide long-term care services and supports through home and community-based service programs;

(B) Person-centered counseling to assist individuals in assessing their existing or anticipated long-term care needs and goals, and developing and implementing a person-centered plan for long-term care that is designed to meet the individual's specific needs, goals, and circumstances;

(C) Access for individuals to the range of publicly-supported long-term care services and supports for which the individuals may be eligible, including home and community-based service options, by serving as a convenient point of entry for such programs and supports; and

(D) In cooperation with area agencies on aging, centers for independent living described in part C of Title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), and other community-based entities, information and referrals regarding available home and community-based services for individuals who are at risk for residing in, or who reside in, institutional settings, so that the individuals have the choice to remain in or to return to the community.

[(10)](13) Altering or renovating—Making modifications to an existing facility which are necessary for its effective use as a multipurpose senior center, including restoration, repair, expansion, and all related physical improvements.

[(11)](14) Area Agency on Aging (AAA)—The agency designated by the division in a planning and service area to develop and administer a plan and administer available funds for a comprehensive and coordinated system of services for *[the elderly] older adults* and *[persons] adults* with disabilities who require similar services.

[(12)](15) Area Agency on Aging governing body—The policy-making board or oversight body which directs the actions of the AAA under local, state, and federal laws and regulations.

[(13)](16) Area plan—The document submitted by an area agency on aging to the division for approval in order to receive subgrants or contracts.

[(14)](17) Assessment—The mechanism for determining needs and eligibility for programs and services.

[(15)](18) Assistant *[s]*/Secretary—The *[a]*/Assistant *[s]*/Secretary for Aging of the U.S. Department of Health and Human Services.

(19) Case management—A service which ensures that individuals with chronic or acute care needs are assessed and provided with a comprehensive and coordinated service program designed to meet those assessed needs.

(20) Caterer—A restaurant, hospital, school, or commercial organization which prepares meals under contract.

(21) CBSA (Core Based Statistical Area)—Consists of one (1) or more counties with at least one (1) urban core of at least ten thousand (10,000) in population, plus adjacent counties that are socioeconomically tied to the urban core by commuting.

[(16)](22) Collocation of services—Coordination and scheduling representatives of providers and other agencies and organizations to assure that, in addition to a center's usual services, all available services benefiting *[the elderly] older adults* are accessible and convenient for recipients *[at the community focal point]*.

[(17)](23) Confidentiality—Procedures which assure the anonymity of the individual service recipient.

(24) Congregate nutrition services—The provision of nutrition services to older adults in a congregate or group setting.

(25) Contributions—Money or food stamps (for meals only) given voluntarily and confidentially toward the cost of a service received.

[(18)](26) Construction—The building of a new multipurpose senior center including the costs of land, acquisition, and architectural engineering fees.

[(19)](27) Continuum of care—A full range of economic, physical,

psychological, and social support programs and services necessary to maintain or restore *[elderly persons] older adults* to optimal functioning.

[(20)](28) Department—Missouri Department of *[Social] Health and Senior Services*.

[(21)] Direct service—Any activity performed to provide services directly to an individual older person by the staff of a service provider or an area agency.]

[(22)](29) Disaster preparedness plan—A regional or statewide plan to organize local efforts to assist *[the elderly] older adults and adults with disabilities* in the event of a disaster situation which affects large numbers of people.

[(23)](30) Division—The Division of *[Aging] Senior and Disability Services* within the Department of *[Social] Health and Senior Services*, the designated state unit on aging.

[(24)](31) Education and training services—Supportive services designed to broaden the knowledge and skills of older *[persons] adults*, their caregivers, advocates, and the professionals serving them to cope more effectively with their economic, health, and personal needs.

[(25)](32) Focal point—A facility established to encourage the maximum collocation and coordination of services for older *[individuals] adults*.

[(26)](33) Greatest economic need—The need resulting from an income level at or below the poverty line.

[(27)](34) Greatest social need—The need caused by non-economic factors, including *[physical and mental disabilities,] disability*; language barriers;*;* and cultural, social, or geographic isolation, including isolation caused by racial or ethnic status, which restrict the ability of an individual to perform normal daily tasks and/or threatens the capacity of the individual to live independently.

[(28)](35) Health screening services— Services in which the service recipient's general health is reviewed, health education is provided, simple tests are provided, or referral is made if indicated.

(36) Highest Level Evidence-Based Program—A program that meets the following criteria: demonstrated through evaluation to be effective for improving the health and well-being or reducing disease, disability, and/or injury among older adults; proven effective with older adult population, using experimental or quasi-experimental design; research results published in a peer-reviewed journal; fully translated in one (1) or more community site(s); and includes developed dissemination products that are available to the public.

(37) Home-delivered nutrition services—Nutrition services delivered to eligible recipients in their homes.

[(29)](38) Indirect costs—Those costs allocated to *[AAA] area agency on aging* grant awards based on a rate approved by the organization's cognizant federal agency.

[(30)](39) Information and assistance *[source]*—A *[location where any public or private agency or organization] service for older adults that—*

(A) *[Maintains] Provides* current information *[with respect to the] on opportunities and services available to older [individuals] adults within their communities;*

(B) *[Employs, where feasible, a specially trained staff to*

assess the needs and capacities of older individuals, to inform older individuals of the opportunities and services which are available and to assist those individuals with economic or social needs; and] **Assesses the problems and capabilities of the older adults;**

(C) [Utilizes, where feasible, electronic and/or computer database information sources in the provision of information and assistance services.] **Links older adults to the opportunities and services that are available;**

(D) **Ensures that older adults receive the services needed, and are aware of the opportunities available to the older adult, by establishing follow-up procedures; and**

(E) **Serves older adults with greatest social need, economic need, and those at risk for institutional placement.**

[(31)](40) **Legal assistance—Legal advice and representation provided by an attorney [(including,] to older adults and adults with disabilities with economic and social needs. Legal Assistance includes to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney]. Legal assistance includes, and counseling or representation by a nonlawyer where permitted by law [but does not include community education].**

[(32)](41) **Local government—A political subdivision of the state, whose authority is general and not limited to only one (1) function or combination of related functions.**

[(33)] **Local match—See match.]**

[(34)](42) **Long-[t]Term [c]Care (LTC) facility—[Any facility a] As defined in section [198.006,] 192.2300, RSMo.**

[(35)](43) **Match—The equivalent cash value of third-party in-kind contributions or non-federal cash resources representing that portion of the costs of a grant-supported project or program not fully borne by the federal or state government.**

[(36)] **Medicaid—Financial assistance for medical services provided under section 208.151, RSMo, in accordance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42 U.S.C. 301).]**

[(37)](44) **Monitoring—The review and evaluation of all [AAA] area agency on aging activities by the division or designee, or of contractor activities by the [AAA] area agency on aging.**

(45) **Multipurpose senior center—A community or neighborhood facility for the organization and provision of a broad spectrum of services which shall include, but not be limited to, provision of health, including mental health, social, nutritional, and educational services, and the provision of facilities for recreational activities for older adults.**

[(38)](46) **Net cost—The total allowable costs, less grant-related income, for the purpose of meeting match requirements.**

[(39)](47) **[Not-for-profit] Nonprofit—An agency, institution, or organization which is owned and operated by one (1) or more corporations or associations with no part of the net earnings benefiting any private shareholder or individual.**

(48) **Nutrition services—Provision of congregate or home-delivered meals, or both.**

(49) **Older adult—A person sixty (60) years of age or older.**

[(40)](50) **Ombudsman—An individual assigned by the division,**

[or] **the area agency on aging, or the area agency on aging's contractors to investigate and resolve complaints made by or on behalf of older [individuals] adults who are residents of LTC facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of these residents.**

[(41)] **Person(s) with disabilities—Anyone who has a mental or physical impairment which substantially limits one or more of their major life activities; or has a record of such impairment; or is regarded as having such an impairment.]**

(51) **Outreach—Intervention with individuals initiated by an agency or organization for the purpose of identifying potential clients (or their caregivers) and encouraging their use of existing services and benefits.**

[(42)](52) **Planning and service area (PSA)—A geographic area of the state that is designated by the division for purposes of planning, developing, delivering, monitoring, and administering services to older [persons] adults and adults with disabilities.**

[(43)](53) **Policy—A principle established by a government, organization, or an individual that guides decision[-]making and actions.**

[(44)](54) **Preprint—The division's [format] instruction for development and submission of the area agency on aging plan or plan amendment.**

[(45)](55) **Priority services—Those service categories of access, in-home, and legal assistance.**

[(46)] **Procedure—The established sequence of actions to be followed to accomplish a task or implement a policy.]**

[(47)](56) **Program—Any service funded under the approved area plan.**

[(48)](57) **Program costs—Costs incurred by the area agency on aging in managing and delivering a service.**

[(49)](58) **Program evaluation—The review and determination of program effectiveness in meeting recipient needs.**

[(50)](59) **Program monitoring—The review and determination of progress in meeting program objectives.**

[(51)](60) **Protective services—Services provided by the division in response to the need for protection from harm or neglect to [elderly persons] older adults and [persons] adults with disabilities under sections [660.250–660.295] 192.2400–192.2505, RSMo.**

[(52)](61) **Public hearing—An open hearing which provides an opportunity for older [persons] adults, the general public, officials of general purpose, local government, and other interested parties to comment [on a proposal].**

[(53)] **Public match—See match.]**

[(54)](62) **Regional office—U.S. Department of Health and Human Services, Administration [on Aging (AoA)] for Community Living (ACL) office located in Kansas City, Missouri.**

[(55)](63) **Renovating—See altering.**

[(56)](64) **Request for proposal (RFP)—A formal invitation to prospective contractors to submit bids for procurement of a defined set of activities, services, or goods.**

[(57)](65) Request for qualifications (RFQ)—A type of RFP which is a formal invitation to prospective providers to submit information suitable for determining eligibility as a qualified provider.

[(58)](66) Rural areas—*[Any town or city with a population of twenty thousand (20,000) or less.]* An area that encompasses all population, housing, and territory not included within an urban area as defined by the United States Census Bureau.

[(59)] SMSA (standard metropolitan statistical area)—*One (1) or more central counties with an urbanized area of at least fifty thousand (50,000) population.*

(60) SSBG—*Social Services Block Grant.]*

(67) Senior center—A facility providing nutrition services and a variety of supportive services to older adults.

(68) Service provider—Any entity which contracts with the Department of Health and Senior Services or an area agency on aging to provide services directly to older adults.

(69) Service recipient—An eligible individual who receives one (1) or more services.

[(61)](70) Staff hour—An hour of staff time spent on any activity related to the service identified.

[(62)](71) Standards—The minimum requirements to be met for the operation of programs and the delivery of services.

[(63)](72) State plan—The document containing the division's priorities, goals, policy statements, and objectives for enabling older *[persons]* adults to fulfill their potential for independent functioning.

[(64)](73) Structural change—Any change to the loadbearing members of a building.

(74) Supportive services—The set of services described in Section 321a and Section 373b of the Older Americans Act.

(75) Supportive service center—A facility providing only activities and supportive services, but no nutrition services.

[(65)](76) Target population—*[Individuals]* Older adults aged sixty (60) or over, with the greatest social and economic need, *[especially]* including low-income minority adults and adults residing in rural areas.

[(66)](77) Technical assistance—Specific guidance and expertise provided by the division staff to the area agency on aging or by the area agency on aging staff to the service provider staff.

(78) Time/temperature control for safety food—A food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation per the Food and Drug Administration (FDA).

[(67)](79) Transportation service—A vehicular service which facilitates access to other services.

[(68)](80) Third-party in-kind contributions—Property or services which benefit grant-supported projects or programs and which, under the grant or subgrant, are contributed by nonfederal third parties without charge to the grantee, the subgrantee, or a cost-type contractor.

[(69)](81) Unit of general purpose local government—See local gov-

ernment.

[(70)](82) Urbanized areas—*[An incorporated place and adjacent densely settled surrounding area that together have a minimum population of fifty thousand (50,000).]* Urbanized areas of fifty thousand (50,000) or more people; or urban clusters of at least two thousand five hundred (2,500) and less than fifty thousand (50,000) people.

[(71)] USDA—United States Department of Agriculture.]

(83) Volunteer—A person, other than staff or Senior Community Service Employment Program (SCSEP) enrollees, who contributes personal service.

[(72)](84) Waiver—The granting of a deviation from portions of service standards, prohibition of direct service delivery, or any other state regulation.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.005 and 13 CSR 15-4.010. Original rule filed Jan. 6, 1986, effective April 30, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability of Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570, Telephone: (573) 526-3626, or Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.020 Administration of the Older Americans Act. The department is amending the purpose statement and sections (1), (2), and (3).

PURPOSE: This amendment updates references to the area agencies on aging.

PURPOSE: This rule describes the organizational structure in the state for administration of Title III of the Older Americans Act of 1965, as amended.

(1) The Division of *[Aging]* Senior and Disability Services, within the Department of *[Social]* Health and Senior Services, is the single organizational unit that is delegated all authority and responsibility to administer programs *[for persons aged sixty (60) and over]* under Title III of the Older Americans Act of 1965, as amended, and in accordance with all applicable federal and state laws and regulations.

(2) The division has designated ten (10) distinct planning and service areas (PSAs) within the state with one (1) [A]area [A]agency on [A]aging (AAA) in each PSA. These agencies are: *Southwest Missouri Office on Aging (SMOA)] Senior Age Area Agency on Aging* (including Dallas, Polk, Dade, Lawrence, Greene, Webster, Wright, Texas, Shannon, Oregon, Howell, Douglas, Christian, Barry, Stone, Taney, and Ozark counties); *Southeast Missouri Area Agency on Aging (SEMO), d/b/a Aging Matters* (including Cape Girardeau, Ste. Genevieve, Perry, St. Francois, Iron, Madison, Reynolds, Wayne, Bollinger, Scott, Mississippi, Stoddard, Butler, Ripley, Carter, New Madrid, Pemiscot, and Dunklin counties); *District III Area Agency on Aging, d/b/a Care Connection for Aging Services* (including Chariton, Carroll, Saline, Lafayette, Johnson, Pettis, Henry, Benton, Bates, St. Clair, Hickory, Vernon, and Cedar counties); *[Northwest Missouri AAA (NWAAA)] Young at Heart Resources* (including Atchison, Daviess, Nodaway, Worth, Harrison, Mercer, Putnam, Sullivan, Grundy, Gentry, Holt, Andrew, DeKalb, Buchanan, Clinton, Caldwell, Livingston, and Linn counties); *Northeast Missouri [AAA] Area Agency on Aging (NEAAA)* (including Adair, Schuyler, Scotland, Clark, Knox, Lewis, Macon, Shelby, Marion, Randolph, Monroe, Ralls, Pike, Lincoln, Montgomery, and Warren counties); *Central Missouri [AAA] Area Agency on Aging (CMAAA), d/b/a Aging Best* (including Audrain, Boone, Callaway, Cooper, Howard, Miller, Moniteau, Cole, Osage, Morgan, Gasconade, Crawford, Washington, Dent, Phelps, Maries, Pulaski, Laclede, and Camden counties); *Mid-America Regional Council, Department of Aging and Adult Services* (including Ray, Clay, Platte, Jackson, and Cass counties); *[Mid-East AAA (MEAAA)] Aging Ahead* (including St. Louis, St. Charles, Franklin, and Jefferson counties); *St. Louis [AAA] Area Agency on Aging (SLAAA)* (St. Louis City); and *Region X [AAA] Area Agency on Aging* (including Barton, Jasper, Newton, and McDonald counties).

(3) Any public or nonprofit private agency or office or agency of a unit of general purpose local government, regional planning area, or metropolitan area which is designated to function only for the purpose of serving as an area agency **on aging** may apply to the division to be designated as a PSA. The division will consider the following factors in making a determination:

(B) The numbers of [persons] **adults** aged sixty (60) or older, including those with the greatest economic and social need;

AUTHORITY: section [660.050] 192.2000, RSMo [1986] 2016. This rule previously filed as 13 CSR 15-4.020. Original rule filed Jan. 6, 1986, effective April 30, 1986. Emergency amendment filed Jan. 5, 1989, effective Jan. 16, 1989, expired April 24, 1989. Amended: Filed Jan. 5, 1989, effective March 25, 1989. Moved to 19 CSR 15-4.020, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570, Telephone: (573) 526-3626, or Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.040 State Plan. The department is amending sections (1), (2), and (3).

PURPOSE: This amendment updates the availability of the state plan.

(1) The assessment and planning process used by the division to develop a comprehensive and integrated plan for delivery of services statewide includes, but is not limited to, consulting with area agencies[, the Governor's Advisory Council] **on aging**, division staff and other agencies and organizations to—

(A) Assess the needs of older [persons] **adults** in the state;

(D) Ensure that the objectives established in the state plan and the area agencies **on aging's** area plans are consistent.

(2) The state plan is developed to cover a period of up to four (4) years, is reviewed by the governor and submitted to the assistant secretary. It is reviewed annually and updated as needed reflecting input and advice from older [persons] **adults** throughout the state and from the [AAAs] **area agencies on aging**.

(3) The state plan is available for review in the office of the director of the Division of [Aging] **Senior and Disability Services**, or at <https://health.mo.gov/seniors/state-plan-aging.php>.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.035 and 13 CSR 15-4.040. Original rule filed Jan. 6, 1986, effective April 30, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570, Telephone: (573) 526-3626, or Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.050 Funding Formula and Fiscal Management. The department is amending sections (1), (2), (3), and (7), deleting sections (5) and (6), and renumbering as necessary.

PURPOSE: This amendment makes necessary changes to the funding

formula and fiscal management responsibilities of the division.

(1) The division in consultation with all [A/area [A]agencies on [A]aging (AAAs) shall develop and use an intrastate funding formula for the allocation of funds received under Title III of the Older Americans Act (the Act) [with the exception of Title III funds allocated for Disease Prevention and Health Promotion Services] and Title III-B funds utilized for outreach demonstration projects and the ombudsman program.

(2) The intrastate funding formula for the state of Missouri shall be established by the proportion of the population in each planning and service area (PSA) as calculated by using the following four (4) factors:

(A) All [individuals] adults in each PSA sixty (60) years of age or older;

(B) All [individuals] adults in each PSA sixty (60) years of age or older who are low income;

(C) All [individuals] adults in each PSA who are sixty (60) years of age or older who are low-income minorities;

(D) All [individuals] adults in each PSA who are sixty (60) years of age or older who are in the greatest social need. The basis for this factor shall be determined by the number of [individuals] adults who are of the appropriate age—

1. With a physical or mental disability;
2. With a language barrier;
3. Who are geographically isolated; or
4. Who are culturally or socially isolated;

(3) The funds allocated to each area agency on aging shall include an identical base amount to each AAA in the state and an amount allotted using the factors in section (2).

[(5) The division in consultation with all AAAs shall develop and use an intrastate funding formula for the allocation of Title III funds for Disease Prevention and Health Promotion Services.

(6) The intrastate funding formula for the allocation of Title III funds for Disease Prevention and Health Promotion Services shall be established by the proportion of the sum of the factors for each PSA to the total of the factors for the state as calculated by using the following three (3) factors:

(A) Average score of the sum of the following four (4) social and economic need indicators per region:

1. The proportion of the individuals who are age sixty (60) and over who are low-income to the total population of individuals who are age sixty (60) and over within each county or the city of St. Louis. A score was assigned to each county or the city of St. Louis based upon the following scale:

- A. 0.00%—6.00% = 1*
- B. 6.01%—12.00% = 2*
- C. 12.01%—18.00% = 3*
- D. 18.01%—24.00% = 4*
- E. 24.01%—100.00% = 5*

2. The proportion of the individuals who are age sixty (60) and over who are receiving Medicaid assistance to the total population of individuals who are age sixty (60) and over within each county or the city of St. Louis. A score was assigned to each county or the city of St. Louis based upon the following scale:

- A. 0.00%—6.00% = 1*
- B. 6.01%—12.00% = 2*
- C. 12.01%—18.00% = 3*
- D. 18.01%—24.00% = 4*
- E. 24.01%—100.00% = 5*

3. The proportion of the individuals who are age sixty

(60) and over who are minority to the total population of individuals who are age sixty (60) and over within each county or the city of St. Louis. A score was assigned to each county or the city of St. Louis based upon the following scale:

- A. 0.00%—1.00% = 1*
- B. 1.01%—5.00% = 2*
- C. 5.01%—8.00% = 3*
- D. 8.01%—12.00% = 4*
- E. 12.01%—100.00% = 5*

4. The population density expressed as individuals per square mile within each county or the city of St. Louis. A score was assigned to each county or the city of St. Louis based upon the following scale:

- A. 0.00—10.00 persons per square mile = 5*
- B. 10.01—15.00 persons per square mile = 4*
- C. 15.01—25.00 persons per square mile = 3*
- D. 25.01—40.00 persons per square mile = 2*
- E. 40.01—100.00 persons per square mile = 1*

(B) The proportion of individuals who are age sixty (60) and over within each PSA to the total population of individuals who are age sixty (60) and over within the state. This factor is computed by dividing the population sixty (60) and over per PSA by the total population sixty (60) and over within the state; the quotient is then multiplied by one hundred (100);

(C) The proportion of individuals who are age sixty (60) and over residing in a designated primary care health professional shortage area (HPSA), as designated by the United States Public Health Service, Office of Shortage Designation, within each PSA to the total population of individuals who are age sixty (60) and over residing in an HPSA within the state. This factor is computed by dividing the population sixty (60) and over residing in an HPSA per PSA by the total population sixty (60) and over residing in an HPSA within the state; the quotient is then multiplied by one hundred (100);

(D) Data used for the following categories will be derived from the most recent decennial Census for use in allocating funds.

- 1. Population sixty (60) and over;*
- 2. Population sixty (60) and over minority;*

(E) Data used for the population sixty (60) and over below poverty will be derived from the most recent decennial Census of Population and Housing;

(F) Data used for the population per square mile will be derived from the most recent decennial Census of Population and Housing Unit Counts;

(G) Data from the Missouri Department of Social Services, Division of Medical Services will be used for population sixty (60) and over receiving Medicaid assistance;

(H) Data from the Department of Health and Senior Services will be used for the population sixty (60) and over residing in HPSAs.]

[(7)](5) Area agencies on aging shall have available not more than ten percent (10%) of the total federal Older Americans Act Title III Part B, Part C-1, Part C-2, [and Title III Disease Prevention and Health Promotion Services] and Part E funds for paying such percentage, but not more than seventy-five percent (75%) of the cost of administration of the area plan. The ten percent (10%) administration allowance shall only be taken from amounts made available to the area agencies on aging from federal Older Americans Act Title III Part B, Part C-1, [and] Part C-2, and Part E.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 2002] 2016. This rule was previously filed as 13 CSR 15-6.195 and 13 CSR 15-4.050. Original rule filed Jan. 6, 1986, effective April 30, 1986.

For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Service, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570, Telephone: (573) 526-3626, or Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.060 State Long-Term Care Ombudsman Program. The department is amending the purpose statement and section (1).

PURPOSE: This amendment updates program names and statutory authority.

PURPOSE: This rule describes how the division operates the statewide [l]Long-[t]Term [c]Care [o]Ombudsman [p]Program.

(1) The statewide [l]Long-[t]Term [c]Care [o]Ombudsman [p]Program (LTCOP) consists of the state office, regional offices, and volunteers. The regional programs are housed in or subcontracted by the designated [A]area [A]agencies on [A]aging. The LTCOP—

(A) Identifies, investigates, and resolves complaints made by or on behalf of residents in long-term care (LTC) facilities relating to action, inaction, or decision of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such residents. If regional LTCOP coordinators, staff or volunteers determine that a nursing home administrator is not willing to work with the ombudsman program to resolve complaints, the regional LTCOP coordinator, staff, or volunteer shall notify the state ombudsman in writing.

1. The state ombudsman, or his/her designee, may facilitate a meeting with the nursing home administrator, and the regional LTCOP coordinator, staff, and/or volunteer. If deemed appropriate, the state ombudsman, or his/her designee may notify the nursing facility's corporate staff (if applicable) of the meeting and its results

2. The regional LTCOP coordinator or staff of the LTCOP state office [staff] may contact the [s]Section for [l]Long-[t]Term [c]Care Regulation (SLTCR). The LTCOP state office staff will monitor cases where the nursing home administrator is unwilling to work with the LTCOP and monitor the involvement and/or investigation conducted by SLTCR;

(G) Establishes a statewide uniform reporting system to collect and analyze complaints about conditions in LTC facilities for the purpose of identifying problems. Information developed is submitted to the division's licensure and certification section and follow-up is coordinated to resolve significant problems. Reports on the information gathered and analyzed through the statewide uniform reporting sys-

tem are submitted to the [commissioner] assistant secretary as required.

AUTHORITY: section[s] 660.050 and 660.603] 192.2000, RSMo [Supp. 2003] 2016, and section 192.2305, RSMo Supp. 2021. This rule was previously filed as 13 CSR 15-6.065 and 13 CSR 15-4.060. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.060, effective Aug. 28, 2001. Emergency amendment filed Sept. 12, 2003, effective Sept. 22, 2003, expired March 19, 2004. Amended: Filed Sept. 12, 2003, effective Feb. 29, 2004. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.070 Designation of Area Agencies on Aging. The department is amending sections (1), (2), (3), and (4).

PURPOSE: This amendment updates references to state and federal legal authority and area agencies on aging.

(1) No more than one (1) area agency **on aging** will be designated within a planning and service area (PSA). If the division withdraws designation of one (1) of the existing area agencies **on aging** in accordance with section [660.050.4] 192.2000.3, RSMo, prior to designating a new area agency **on aging**, the division shall—

(B) Determine through an on-site assessment that the potential area agency **on aging** has the capacity to perform all of the required functions.

(2) Any one (1) of the following types of agencies may be designated as an area agency **on aging** for a PSA:

(3) Whenever a new [A]area [A]agency on [A]aging is designated after the date of enactment of the Older Americans Act [amendments of 1984] of 1965, as amended, the division will give the right of first refusal to a unit of general purpose local government if—

(4) The division considers applicants eligible for designation as an area agency **on aging** that meet the following criteria:

(B) If the applicant has responsibilities beyond programs for [the elderly] older adults, it shall agree to create a single organizational unit with delegated authority whose principal function shall be the effective development and implementation of an area plan;

(C) The applicant has demonstrated the capacity to assess the needs of *[the elderly] older adults* and to plan, administer, monitor, and evaluate services for the entire PSA, **including underrepresented groups**. The applicant shall be able to work effectively with all public and private social, economic, *[ethnic,]* **cultural**, political, and geographic elements of the PSA it seeks to serve;

(D) The applicant has documented support of local governments and any local aging councils. The applicant, if a private *[not-for-profit] nonprofit* agency, has documented that it is incorporated by the Missouri *[s]*Secretary of *[s]*State and maintains a current certificate of good standing; and

(E) The applicant, if a private *[not-for-profit] nonprofit* agency, has documented that it has applied to the Internal Revenue Service and received the appropriate tax status designation.

AUTHORITY: section [660.050] 192.2000, RSMo [1986] 2016. This rule was previously filed as 13 CSR 15-6.045 and 13 CSR 15-4.070. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.070, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.080 Withdrawal of Designation. The department is amending the purpose and sections (1), (2), (3), and (4).

PURPOSE: This amendment updates terminology and makes grammatical updates.

PURPOSE: This rule identifies the circumstances under which the division may withdraw designation of an area agency **on aging**, notify the assistant secretary of the action, and provide for continuity of services.

(1) The division may withdraw an area agency *[’s]* **on aging**’s designation if—

(A) The area agency **on aging** does not comply with requirements of *[the]* federal and state laws or rules;

(B) State or federal funds are not being expended for the purposes for which they were intended; *[and]* or

(C) *[Elderly persons] Older adults* are not receiving appropriate services within available resources.

(2) Withdrawal of designation of an area agency **on aging** shall not occur without consultation with the director of the *[A]*area

*[A]*agency on *[A]*aging and the area agency **on aging** board and an opportunity has been granted for a formal hearing and review by the governor.

(3) Should the division withdraw designation of an area agency **on aging**, the division will notify the assistant secretary in writing of its action, provide a plan for the continuity of services in the affected planning and service area (PSA), and designate a new area agency **on aging** in the PSA in a timely manner.

(4) If necessary to ensure a continuity of services in a PSA, the division, for a period of up to one hundred eighty (180) calendar days, may perform the responsibilities of the area agency **on aging** or assign the responsibility of the area agency **on aging** to another agency in the PSA. The division may request an extension of an additional one hundred eighty (180) days from the assistant secretary if the need for the extension can be demonstrated.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.050 and 13 CSR 15-4.080. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.080, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.090 Appeal to the Assistant Secretary. The department is amending sections (1), (2), and (3).

PURPOSE: This amendment updates statutory authority and makes grammatical updates.

(1) Any applicant for designation as a planning and service area (PSA) whose application has been denied by the division and who has requested and received a formal hearing at the state level shall be notified in writing of the right to appeal to the assistant secretary *[,]* of the Department of Health and Human Services. Written notification shall advise the applicant that a written appeal may be filed with the assistant secretary within thirty (30) calendar days of receipt of notification of the hearing decision.

(3) Upon receipt of written notice of the date, time, and location, the division director *[,]* or designated representative *[,]* or both *[,]* shall attend the assistant secretary’s hearing on the applicant’s appeal.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.055 and 13 CSR 15-4.090. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.090, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.100 Area Agency on Aging Governing Body. The department is amending the title, purpose, and sections (1), (2), (3), (4), and (8).

PURPOSE: This amendment updates legal authority, regulations, and terminology.

PURPOSE: This rule requires each area agency on aging to have a governing body and, unless otherwise governed by local law, ordinance, or charter, specifies its composition, responsibilities, and requirements.

(1) Each area agency on aging, unless otherwise structured by local law, ordinance, or charter shall have a governing body of adequate size and structure to operate efficiently and effectively.

(2) The area agency on aging governing body shall maintain the ultimate authority and responsibility for administration of the approved area plan to provide services to [the elderly] older adults within the designated planning and service area in accordance with all applicable federal, state, and local laws and regulations and division policies and procedures.

(3) The area agency on aging governing body shall have written bylaws, ordinances, or charter that define its membership, authority, responsibilities, and procedures for operation. Unless specified otherwise by local laws, ordinances, or charter the governing body shall comply with the requirements below:

(D) Membership [on] in the area agency on aging governing body shall not be restricted to individuals from any specific race, creed, color, sex, religion, age, national origin, disabilities, or veteran status. Elections procedures shall conform to [13/19] CSR 15-4.105.

(E) All members of the area agency on aging governing body shall serve three- (3-)/-/ year staggered terms, meaning one-third (1/3) of the membership is elected in year one (1), one-third (1/3) is elected in year two (2), and one-third (1/3) is elected in year three (3), then

continue in the same manner; and

(F) The area agency on aging governing body shall not select, appoint, or elect as a member, or *ex officio* member, any individual who is an owner, board member, or employee of a service provider agency that has currently submitted a proposal to the area agency on aging to receive funding to provide services or that is currently providing services under a grant, contract, or stipend with the area agency on aging.

(4) The area agency on aging governing body shall maintain full and complete written minutes of all meetings. Upon request, these minutes shall be available for review by the division and the public.

(8) The area agency on aging governing body, within thirty (30) days, shall notify the division of any changes it makes in its corporate status, administrative status, staff, location, or telephone number.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.070 and 13 CSR 15-4.100. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.100, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.105 Area Agency on Aging Election Procedures for Governing Body Membership. The department is amending the title, purpose, and sections (4), (5), (7), (8), (9), and (10).

PURPOSE: This amendment updates legal authority, regulations, and terms.

PURPOSE: This rule establishes and describes election procedures for membership on the area agency on aging governing body. This rule does not apply to area agency on aging board members appointed by the chief executive of a unit of local government, political subdivision, or council of government who are elected officials with the exception of section (2).

(4) The area agency on aging governing body will designate a minimum of one (1) polling location per county.

(5) The time and location of the election shall be publicized in community newspapers at least seven (7) days prior to the election and

posted at a minimum in all area agency **on aging** sponsored senior centers.

(7) The area agency **on aging** will be responsible for printing the official ballots. Nominees shall be listed alphabetically.

(8) A minimum of two (2) persons designated by the area agency **on aging** shall be present to count votes unless a local county clerk agrees to count votes and certify the results.

(9) Results of the election will be submitted to the area agency **on aging** central office in a standard reporting format.

(10) All ballots and affidavits shall be kept for a minimum of twenty-two (22) months as required by [section 1974 of Title 42 United States Code] 52 U.S.C. 20701 for federal elections, provided they have received final audit approval.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule previously filed as 13 CSR 15-4.105. Original rule filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.105, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.110 Area Agency on Aging Advisory Council. The department is amending the title, purpose, and sections (1), (3), (4), and (5).

PURPOSE: This amendment updates legal authority and terminology.

PURPOSE: This rule requires each area agency on aging to have an advisory council and establishes the requirements it shall meet.

(1) Each area agency **on aging** shall have an advisory council which shall develop and make public written bylaws which specify the role and functions of the advisory council, number of members, procedure for selection of members, term of membership, and the frequency of meetings.

(3) The composition of the councils shall be more than fifty percent (50%) older [persons] **adults**, including older [persons] **adults** with the greatest economic or social need, older minority [individu-

a/s] **adults**, service recipients and also shall include representatives of older [persons] **adults**, local elected officials, and the general public.

(4) The advisory council shall advise the area agency **on aging** on developing and administering the area plan, conducting public hearings, representing the interests of [the elderly] **older adults**, and reviewing and commenting on community policies, programs, and actions affecting [the elderly] **older adults**.

(5) The area agency **on aging** shall provide staff and assistance to the advisory council.

AUTHORITY: sections [660.050] 192.2000 and 192.2020, RSMo [1986] 2016. This rule was previously filed as 13 CSR 15-6.085 and 13 CSR 15-4.110. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.110, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.120 Affirmative Action/Equal Employment Opportunity/Preference in Hiring. The department is amending the purpose and sections (1) and (2).

PURPOSE: This amendment updates legal authority and terminology.

PURPOSE: This rule requires each area agency on aging receiving federal or state funds to comply with the requirements of Affirmative Action/Equal Employment Opportunity programs and to give preference in hiring to persons aged sixty (60) or over.

(1) Each area agency **on aging** shall have an Affirmative Action/Equal Employment Opportunity program as required by [Title V of the Code of Federal Regulations,] 5 CFR [P]part 900, [Standards for a Merit System of Personnel Administration] **subpart F**. The written Affirmative Action/Equal Employment Opportunity plan shall be kept on file for review and shall be updated as required.

(2) The area agency **on aging**, subject to established job qualification requirements or merit system requirements, shall give preference in hiring to applicants who are sixty (60) years of age or over for all full- or part-time positions.

AUTHORITY: section [660.050] 192.2000, RSMo [1986] 2016. This rule was previously filed as 13 CSR 15-6.075 and 13 CSR 15-4.120. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.120, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.130 Area Agency on Aging Staff. The department is amending the title, purpose, and sections (1), (2), and (3).

PURPOSE: This amendment updates terminology and legal authority.

PURPOSE: This rule requires the area agency on aging to have a written staffing plan, employ a full-time director, and have adequate numbers of staff.

(1) The area agency **on aging** shall have on file for review—an up-to-date staffing plan that includes, but is not necessarily limited to, an organizational chart; a description of the education, experience, and background qualifications required for each position (paid and volunteer); a description of the responsibility assigned to each position (paid and volunteer); and a salary schedule.

(2) The area agency **on aging** shall employ a full-time director to assure the effective and efficient administration of the area plan. The full-time director shall possess the education, experience, and background qualifications as determined necessary by the governing body to fulfill the requirements and functions of the director's position.

(3) The area agency **on aging** shall employ sufficient staff to carry out the required functions of the area agency **on aging**.

AUTHORITY: section [660.050] 192.2000, RSMo [1986] 2016. This rule was previously filed as 13 CSR 15-6.080 and 13 CSR 15-4.130. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.130, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.135 Area Agency on Aging Director. The department is amending the title, purpose, and sections (3) and (4).

PURPOSE: This amendment updates terminology and legal authority.

PURPOSE: This rule establishes and describes procedures each area agency on aging shall follow in hiring a director unless otherwise governed by merit system requirements established under local law, ordinance, or charter.

(3) The governing body shall establish a salary range for the director of the area agency **on aging** which is commensurate with the duties and responsibilities of the position.

(4) The search committee shall advertise the vacancy *[in at least one (1) major newspaper with the greatest circulation in the area]*.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule previously filed as 13 CSR 15-4.135. Original rule filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.135, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health of Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.140 Area Agency on Aging Plan. The department is

amending the title, purpose, and sections (1), (3), and (4).

PURPOSE: This amendment updates legal authority and terminology and makes grammatical updates.

PURPOSE: This rule establishes the requirements that the area agency on aging shall meet to develop or amend and submit an area plan.

(1) The area agency **on aging** shall develop the area plan in accordance with all applicable federal and state regulations, the uniform plan format, and other guidelines issued by the division.

(3) The area plan shall be amended under the following situations:

(C) The area agency **on aging** changes the designation of the single organizational unit or component unit;

(D) Receipt by area agency **on aging** staff or board members of compensation or other items of value above their salaries or the normal fringe benefits available to all staff; *[and] or*

(E) The area agency **on aging** takes any action for which prior division approval is required by state regulation, divisional policy, or preprint instructions.

(4) The area plan or plan amendments shall not be implemented until approved in writing by the division **director or designee**.

AUTHORITY: sections [660.050] 192.2000 and 192.2025, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.095 and 13 CSR 15-4.140. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.140, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.150 Waivers. The department is amending the purpose and sections (1) and (2).

PURPOSE: This amendment updates terminology and legal authority.

PURPOSE: This rule allows the area agency on aging to request a waiver from meeting specific requirements and sets forth procedures to be followed.

(1) An area agency **on aging** shall request a waiver if unable to comply with a specific division requirement. The request shall—

(A) *[b/Be in writing]*, *shall*;

(B) *[b/Be signed by the chairperson of the governing body]*, *shall* and the **director of the area agency on aging**;

(C) *[s/State the requirement for which a waiver is requested; and]* *[shall]*

(D) *[i/Include supportive documentation that explains why the requirement cannot be met, a description of the area agency/['s] on aging's proposed alternative for meeting the requirement, and an explanation of why the proposed alternative is most applicable for the area agency/['s] on aging's situation.*

(2) Public Hearing for Waivers for Priority Services.

(A) Prior to submitting a waiver request for a priority service, the area agency **on aging** shall conduct, at a minimum, one (1) public hearing on the content of a proposed waiver. The hearing shall be scheduled at a convenient time and location to ensure maximum attendance by interested parties, representatives of the governing body and advisory council to the area agency **on aging**, public officials, and *[elderly persons]* **older adults**.

(C) In addition, notice of the public hearing shall be provided to service providers, organizations of *[the elderly]* **older adults**, public officials, and other public and private agencies in the planning and service area.

(D) Records of the public hearings held shall be on file at the area agency **on aging** office and shall be submitted to the division with the waiver request. The records shall include the following:

1. Documentation of public notice;

2. List of names of persons attending the hearing and organizations represented; and

3. Written summary of all comments received, including if and how comments were incorporated.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.100 and 13 CSR 15-4.150. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.150, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.160 Review, Submission, and Approval of Area Agency on Aging Area Plans and Plan Amendments. The department is amending the title, purpose, and sections (1), (2), (3), and (4).

PURPOSE: This amendment updates legal authority and terminology.

PURPOSE: This rule describes the requirements for review, submission to the division, and the criteria for approval of the area agency[’s] on aging’s area plan or plan amendments.

(1) Where not covered by charter or established governmental procedures the following shall apply. The area agency on aging shall submit the area plan and any plan amendments for review and approval by the area agency[’s] on aging’s governing body. The area agency on aging shall obtain signed documentation stating that the area plan and annual updates have been approved by the governing body. The area agency on aging shall also submit the area plan and annual updates to its advisory council for review and comment prior to transmittal to the state unit on aging as required by 45 CFR 1321.57. The area agency on aging shall comply with the Missouri state and local review process.

(2) Following guidelines specified by the division in the preprint, the area agency on aging shall submit the proposed area plan or amendments to the division for approval.

(3) The division will approve, in writing, an area agency[’s] on aging’s plan or plan amendment indicating that it meets federal and state regulations and division policies and guidelines.

(4) The division will notify the area agency on aging, in writing, within fifteen (15) business days of receipt at division offices of making a determination that it finds that any provision of the area plan or any plan amendment is not approvable and that the division proposes to disapprove the area plan or amendment. Written notification shall include the following:

(B) Provision for the opportunity for the area agency on aging to review any pertinent documents upon which the determination was based; and

AUTHORITY: sections [660.050] 192.2000 and 192.2025, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.110 and 13 CSR 15-4.160. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.160, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act**

PROPOSED AMENDMENT

19 CSR 15-4.170 Area Agency on Aging Fiscal Management. The

department is amending the title, purpose, and sections (1)–(18).

PURPOSE: This amendment updates legal authority and terminology, and makes grammatical changes.

PURPOSE: This rule describes the requirements that the area agency on aging shall meet in managing all funds related to programs funded in whole or in part with state or federal funds associated by the Division of [Aging] Senior and Disability Services.

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

(1) The area agency on aging shall establish a system to monitor financial expenditures of grants and contracts. In order to ensure adequate monitoring, at a minimum, the area agency on aging shall—

(B) Document, through assessment reports, that expenditures are made in accordance with the provisions of [part 74 of Title] 45 CFR Part 75;

(2) The area agency on aging shall submit written requests for transfers [according to the procedures established by] to the division.

(3) The area agency on aging, upon request, shall provide fiscal information to the division, from area agency on aging documentation.

(4) The area agency on aging shall provide assurances that [an adequate proportion of the] at least the minimum amount allotted for supportive services [(Part B)] (Title III B of the Older Americans Act) to the planning and service area will be expended for the delivery of each of the priority services [Adequate proportion shall be determined by considering the area agency budget and history for each service and current needs assessment data related to each service] as outlined in the Missouri State Plan on Aging 2020–2023, which has been incorporated by reference in this rule, as published by Missouri Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570, and available by the department at <https://health.mo.gov/seniors/state-plan-aging.php>. This rule does not incorporate any subsequent amendments or additions.

(5) The area agency on aging annually shall specify in the area plan, as submitted or as amended, in detail, the amount of funds expended for each category of services during the fiscal year most recently concluded.

(6) Nonfederal matching requirements shall be met by the area agency on aging on the aggregate net cost of [social] supportive and nutrition services and administration under Title III of the Older Americans Act. Further requirements are as follows:

(C) The nonfederal match for [social] supportive and nutrition services’ net costs shall be no less than fifteen percent (15%) of the net cost;

(7) The area agency on aging shall have an organization-wide audit completed by an independent certified public accountant [at least every two (2) years (covering the previous two (2)-year period); however,] yearly [audits are recommended]. Further requirements are as follows:

(A) Audits shall be completed and submitted to the division no

later than *[one hundred twenty (120)] one hundred eighty (180)* calendar days after the close of the agency's fiscal year;

(B) The area agency **on aging** may request, in writing, a one (1)-month extension from the division. The request shall include the reason(s) for the extension and shall be received by the division/*'s auditor* no later than ten (10) working days before the audit due date. The division shall approve or reject a request for extension no more than five (5) working days after receipt of the written request;

(C) The criteria to be followed in auditing an area agency **on aging** shall be for—

1. Governmental agencies, *[Office of Management and Budget (OMB) Circular A-133]* the audit provisions in **2 CFR Part 200** shall apply for fiscal years beginning after December 31, 1984; and

2. All other agencies, the audit provisions in *[OMB Circular A-110, Attachment F]* **2 CFR Part 200** shall apply; and

(8) The area agency **on aging** shall not delegate authority to award or administer funds under Title III of the **Older Americans Act** to other agencies. The exception may be for transportation agreements with agencies which administer programs under the Rehabilitation Act of 1973 and Titles XIX and XX of the Social Security Act to meet the common need for transportation of service recipients under the separate programs.

(9) Unexpended **funds and administrative allotments** from Title III B, III C-1, III C-2 *[funds and administrative allotments]* awarded under the **Older Americans Act** for which there are no legal obligations shall not exceed fifteen percent (15%) of each subpart's total allotment at the end of each fiscal year.

(10) Program income shall be—

(A) Earned gross income by an area agency **on aging** from activities, part or all of the cost of which is either borne as a direct cost by a grant or counted as a direct cost toward meeting a cost-sharing or matching requirement of a grant. It includes, but is not limited to, income in the form of fees for services performed during the grant or subgrant period, proceeds from sale of tangible personal or real property, usage or rental fees and patent or copyright royalties. If income meets this definition, it shall be considered program income regardless of the method used to calculate the amount paid to the area agency **on aging**;

(B) Used to expand services for *[the elderly]* **older adults** in the program from which it was earned;

(11) The area agency **on aging** shall submit fiscal reports to the division on an accrual accounting basis. If the area agency/*'s on aging's* fiscal records show effective control and accountability, the agency may develop the reports through available documentation. The area agency **on aging** may estimate outlays in instances where—

(B) The area agency **on aging** is unable to obtain actual data in time to meet reporting deadlines.

(12) The area agency **on aging** shall follow *[Title 45 CFR part 74]* **45 CFR Part 75** Administration of Grants except where inconsistent with federal statutes, regulations, or other terms of a grant or when either the language of the provision itself or other text in the same subpart indicates the provision affects service provider agencies (subgrantees) and use of the term—

(A) Recipient shall be taken as referring to area agencies **on aging** (subgrantees); and

(13) The area agency **on aging** shall meet requirements concerning advancements, reimbursements, or interest earned on federal funds as follows:

(14) The area agency **on aging** shall submit monthly invoices for reimbursement of expenditures to the division within *[fifteen (15)]*

twenty-one (21) days after the close of each fiscal month on forms prescribed by the division.

(15) The area agency **on aging** shall meet the division's reporting requirements for quarterly and final financial reports as follows:

(16) Any cost allocation plans and indirect costs rates shall be determined in accordance with the following guidelines:

(A) For governments, *[OMB Circular A-87]* **2 CFR Part 255**, including any amendments *[to the circular]* published by the United States OMB;

(B) For institutions of higher education, *[OMB Circular A-21]* **2 CFR Part 220** and as published in the *Federal Register* by OMB; and

(C) For other nonprofit organizations, *[OMB Circular A-122]* **2 CFR Part 230**.

(17) In order to minimize a loss of funds in the event of bank insolvency, the area agency **on aging** shall not deposit contributions and federal grant funds in any one (1) bank in an amount that exceeds that bank's maximum insured amount by the Federal Deposit Insurance Corporation (FDIC). The total deposits in one (1) bank, regardless of the number of separate accounts, shall not exceed the maximum amount insured by the FDIC. An acceptable alternative is to request the bank to pledge securities to the area agency **on aging**. These securities shall act as insurance for excessive cash balances. Documentation of compliance shall be maintained by the area agency **on aging**.

(18) Contributions shall be handled according to procedures as required for service providers in *[13 CSR 19-7.010(13)]* **19 CSR 15-7.010**.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp.1999] 2016. This rule was previously filed as 13 CSR 15-6.200 and 13 CSR 15-4.170. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.170, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.175 Funding for Establishment, Maintenance, Modernization, Acquisition, or Construction of Multipurpose Senior Centers. The department is amending the rule title, rule purpose, and sections (1)–(18), (20), and (21).

PURPOSE: This amendment updates the purpose, terminology, legal authority, procedures, and guidance.

PURPOSE: This rule sets forth the procedures and guidance mandated in 42 U.S.C. 3030b and Administration on Aging PI-91-04 for financing [multipurpose senior centers building acquisitions or improvements] the establishment, maintenance, modernization, acquisition, or construction of multipurpose senior centers with funding received from the division.

(1) The requirements of this rule apply to the use of division funding [to acquire, construct, alter or renovate multipurpose senior centers] for establishment, maintenance, modernization, acquisition, or construction of multipurpose senior centers. The requirements apply whether division funding is used to finance the cost in whole or in part.

(2) Area agencies on aging may utilize supportive services funding received from the division to finance the acquisition, [construction, alteration or renovation of multipurpose senior centers] establishment, maintenance, modernization, or construction of multipurpose senior centers only where an area plan or area plan update has been approved by the division, where funding has been explicitly identified and designated in the plan or plan update for the named center, and where—

(A) The center is operated under an approved direct service waiver where title to the structure is held by the area agency on aging; or

(3) Area agencies on aging must notify the division in writing within thirty (30) days of any decision to acquire, [construct, alter or renovate a center] establish, maintain, modernize, or construct a multipurpose senior center. The notification must include:

(D) Nature of the project funded (acquisition, [construction, alteration or renovation] establishment, maintenance, modernization, or construction);

(E) Name and address of grantee, where applicable; [and]

(F) Name and address of the center.; and

(G) A plan to use the skills and services of older adults in paid and unpaid work, including multigenerational and older adult to work.

(4) Total cost, for the purposes of this rule, includes all costs incurred by the title holder whether financed with division funding, other area agency on aging funding, or funding from third parties. Total cost does not include the value of any third-party in-kind contributions.

(5) Funding under the area agency/'s/ on aging's grant/contract with the division, for the purposes of this rule, includes funding received from the division and funding counted toward satisfying any matching requirement for receipt of division funding.

(6) Area agencies on aging must file the following notice of record with the appropriate unit of local government when acquiring or constructing an agency-owned center:

"This is to serve as notice to all potential sellers, purchasers, transferees, and recipients of a transfer of the real property described below as to the federal government's reversionary interests as set forth in section 312 of the Older Americans Act of 1965, as amended, [in 1987] 42 U.S.C. 3030b, which have arisen as a result of (grantee's name) receipt and use of Department of Health and Human Services' grant funds in connection with the purchase or construction of said property. The property to which this notice is applicable is (address) and identified as parcel (insert appropriate number(s)) in the books and records of (insert appropriate name of local unit of government's recording agency). Said real property is also described as: (insert description provided in survey). Further

information as to the federal government's interest referred to above can be obtained from: (name and address of area agency on aging)."

(7) Area agencies on aging must include a requirement in all grant awards for acquisition, [or construction of a center] establishment, maintenance, modernization, or construction of a multipurpose senior center that the grantee file the notice of record detailed in section (6) and deliver a copy of the filed notice to the agency.

(8) Within thirty (30) days of the filing date, area agencies on aging must deliver a copy of all filed notice of records to the division.

(9) Area agencies on aging must notify the division in writing within thirty (30) days when—

(A) The area agency/'s/ on aging's board of directors approves additional funding for [a center] acquisition, [construction, alteration or renovation] establishment, maintenance, modernization, or construction of a multipurpose senior center project;

(B) The area agency on aging's board of directors approves funding [to alter or renovate a center acquired or constructed] for acquisition, establishment, maintenance, modernization, or construction of a multipurpose senior center with division funding;

(10) Area agencies on aging must maintain a perpetual inventory listing of all multipurpose senior centers [acquisitions, constructions, alterations or renovations] acquired, established, maintained, modernized, or constructed financed with division funding.

(11) The inventory listing must include all centers whether owned by the area agency on aging or by a public or nonprofit private organization.

(12) The inventory listing must include the following information:

(A) Date the project was approved by the area agency/'s/ on aging's board of directors;

(B) Amount approved by the area agency on aging's board of directors for the project;

(C) Percentage of total cost which will be paid from funding under the area agency/'s/ on aging's grant/contract with the division;

(D) Nature of the project funded (acquisition, [construction, alteration or renovation] establishment, maintenance, modernization, or construction of multipurpose senior centers);

(13) Area agencies on aging must update the inventory when any of the following occur:

(A) The area agency on aging's board of directors approves new or additional funding for a public or nonprofit private organization to acquire, [construct, alter or renovate a center] establish, maintain, modernize, or construct a multipurpose senior center;

(B) The area agency on aging's board of directors approves new or additional funding to acquire, [construct, alter or renovate an agency-owned center] establish, maintain, modernize, or construct a multipurpose senior center;

(14) The area agency on aging must maintain an annual inventory listing and provide a copy to the division upon request.

(15) The division shall be entitled to recover funds from an area agency on aging when a multipurpose senior center within ten (10) years after acquisition, establishment, maintenance, modernization, or construction or within twenty (20) years after completion of construction ceases to be—

(B) Used for the purpose for which it was acquired, [constructed, altered or renovated] established, maintained, modernized, or constructed.

(16) The amount recoverable by the division shall be a percentage of current market value. The percentage shall be equivalent to the percentage of funds contributed under the **area agency[’s] on aging’s** grant/contract with the division to the total original cost of the acquisition, *[or construction]* **establishment, maintenance, modernization, or construction of multipurpose senior centers.**

(17) Area agencies **on aging** are encouraged to enter into legally binding agreements with the grantees permitting the area agency **on aging** to recover an equivalent amount of funding. The division shall be entitled to recover the full amount from the area agency **on aging** regardless of the area agency[’s] **on aging’s** ability to recover funding from a grantee.

(18) An area agency **on aging** may petition for waiver of recovery by submitting a written request within thirty (30) days of any event outlined in section (15). The request must detail the reason(s) the area agency **on aging** believes good cause exists for releasing the agency from the obligation.

(20) Area agencies **on aging** must maintain the following on file:

(B) Records documenting the amount of total costs paid with funding under the **area agency[’s] on aging’s** grant/contract with the division;

(21) Area agencies **on aging** must maintain all material listed in section (20) applicable to a center for three (3) years after the division obtains an independent audit in conformance with federal Office of Management and Budget requirements covering the period in which—

(C) Ten (10) years have elapsed from the time division funding was used to acquire, *[the facility]* **establish, maintain, or modernize, the multipurpose senior center;** or

(D) Twenty (20) years have elapsed from the time division funding was used to construct the *[facility]* **multipurpose senior center.**

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule previously filed as 13 CSR 15-4.175. Original rule filed Feb. 11, 1992, effective June 25, 1992. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.175, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.180 Area Agency on Aging Advocacy Responsibility.

The department is amending the rule title, rule purpose, and sections (1) and (2).

PURPOSE: This amendment updates terminology and legal authority.

PURPOSE: This rule requires the area agency on aging to carry out activities to advocate in the interest of [the elderly] older adults.

(1) The area agency **on aging** shall serve as the advocate for *[the elderly] older adults* in the planning and service area by performing at least the following activities:

(A) Monitor, evaluate and comment on all policies, programs, hearings, levies and community actions which affect older *[persons] adults;*

(B) Solicit comments from the public on the needs of older *[persons] adults;*

(C) Represent the interests of older *[persons] adults* to public officials, public and private agencies, or organizations;

(D) Carry out activities in support of the *[division’s] department’s* *///Long-/t/Term [c]/Care [o]/Ombudsman [p]/Program;* and

(E) Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older *[persons] adults.*

(2) The area agency **on aging** shall develop and implement written policies and procedures that describe how it carries out advocacy activities.

AUTHORITY: section [660.050] 192.2000, RSMo [1986] 2016. This rule was previously filed as 13 CSR 15-6.115 and 13 CSR 15-4.180. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.180, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.190 Area Agency on Aging Development of a Comprehensive and Coordinated Service Delivery System. The department is amending the rule title, rule purpose, and sections (1)–(14).

PURPOSE: This amendment updates terminology and legal authority.

PURPOSE: This rule describes the requirements the area agency on

aging shall meet to develop a comprehensive and coordinated service delivery system within the planning and service area.

(1) The area agency **on aging** continuously shall work toward development of a comprehensive coordinated community-based system that shall facilitate access to and utilization of all supportive and nutritional services provided by any source within the planning and service area (PSA). Components of this system may include:

(C) Services provided in the home, such as *[home health services,]* homemaker services, personal care services, legal assistance, respite, case management, counseling, chore, visiting, shopping assistance, reading/letter-writing, telephone reassurance, home-delivered meals, and nutrition education; and

(2) The area agency **on aging** shall assess the needs of *[the elderly] older adults* in the PSA and the effectiveness of resources in meeting identified needs.

(3) The area agency **on aging** shall establish effective and efficient procedures for coordination of planning and service delivery with other agencies and organizations within the PSA, including agencies that administer the following:

(A) *[The Job Training Partnership Act (JTPA)] Workforce Innovation and Opportunity Act (WIOA);*

(C) Titles *[VI, X] XVI, XVIII, XIX, and XX* of the Social Security Act;

(E) The *[United States] Housing Act of [1959] 1937;*

(H) Title I of the Higher Education Act of 1965 and the Adult Education **and Family Literacy Act;**

(N) Demographic statistics and analysis programs conducted by *[the Bureau of Census] the United States Census Bureau.*

(4) The area agency **on aging** may make arrangements with other local agencies and organizations for services and programs that benefit *[the elderly] older adults*, such as—

(A) Children's day care organizations so that older *[persons] adults* can volunteer to help provide the day care; and

(B) Local educational agencies, institutions of higher education, and *[not-for-profit] nonprofit* private organizations.

(5) The area agency **on aging** shall develop and publish the methods that are used to establish priorities for services, particularly—

(B) In-home services. These services include homemaker, personal care *[aide]*, visiting and telephone reassurance, chore, **respite, adult daycare, homebound shopping, home modification and repair, medication set-up,** and supportive services for families of *[elderly] older adult* victims of Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type; and

(6) The area agency **on aging** shall give preference in the delivery of services to *[elderly persons] older adults* with the greatest economic or social need. A description of the methods and procedures used to assure that services are provided to those with the greatest economic and social need including low-income minority shall be included in the area plan.

(7) The area agency **on aging** shall provide adequate and effective opportunities for *[the elderly] older adults* to express their views on policy development and program implementation.

(8) The area agency **on aging** shall develop and implement organized ongoing outreach activities to *[elderly individuals] older adults*, particularly those residing in rural areas and those with greatest economic or social need and inform them of services that are available. Area agency **on aging** outreach activities shall be coordinated with the outreach activities required of each service provider within the PSA.

(9) The area agency **on aging** shall develop a comprehensive, coordinated disaster preparedness plan which shall include service providers in the PSA.

(10) The area agency **on aging** shall assure that all service providers follow the applicable requirements set forth in *[13/19 CSR 15-7, 19 CSR 15-4.245, 19 CSR 15-4.295, and 19 CSR 15-4.410.*

(11) The area agency **on aging** shall assure that *[the elderly] older adults* residing in the PSA have reasonably convenient access to information and assistance systems.

(12) The area agency **on aging** shall designate *[a] focal points* for comprehensive service delivery *[in each community]* giving special consideration to multipurpose senior centers and assuring that the facility can accommodate the collocation of services.

(13) The area agency **on aging** shall encourage maximum collocation and coordination of services through the community focal point by—

(14) The area agency **on aging** may plan, coordinate, and provide services funded under other programs if it continues to meet its area agency **on aging** responsibilities.

AUTHORITY: section [660.050] 192.2000, RSMo [1999] 2016. This rule was previously filed as 13 CSR 15-6.120 and 13 CSR 15-4.190. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.190, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.200 Area Agency on Aging Subgrants or Contracts. The department is amending the title, purpose, and sections (1), (4), and (5) and deleting sections (2) and (3).

PURPOSE: This amendment updates terminology and legal authority.

PURPOSE: This rule sets forth requirements for the area agency on aging to follow in awarding subgrants and contracts.

(1) The area agency **on aging** shall follow applicable procurement standards as specified in 45 CFR Part *[74/75 and 2 CFR Part 200. [If an area agency utilizes a request for qualifications (RFQ),*

this shall be considered a competitive negotiation procurement method as described in subsection 11c of Appendix G.]

[(2) The area agency shall publicly announce all solicitations at least thirty (30) calendar days prior to the deadline for acceptance of responses. Media announcements shall be made within the appropriate planning and service area in a manner that will enable current and potential service providers to be notified. The public notice shall—

(A) Identify each program/service to be funded;

(B) Specify the date by which responses must be submitted for consideration; and

(C) Advise how copies of the solicitations may be obtained.

(3) The area agency shall submit, for the division's prior approval, any proposed contracts with profit-making organizations for the provision of services under the area plan as required by section 212 of the Act. The area agency is not required to submit to the division for prior approval any proposed subgrants or contracts with public or private nonprofit agencies or organizations.

(A) In addition to complying with all applicable federal procurement practices, all purchases shall be based on competitive bids, except that the area agency may make purchases of less than two thousand dollars (\$2,000) in value on the open market. On any purchase estimated at ten thousand dollars (\$10,000) or more the agency shall advertise for bids in at least two (2) newspapers of general circulation in such places as are most likely to reach prospective bidders at least fourteen (14) days before bids are to be opened. The agency shall also solicit bids by mail from at least three (3) prospective suppliers on purchases of ten thousand dollars (\$10,000) or more. For purchases of more than two thousand dollars (\$2,000) but less than ten thousand dollars (\$10,000) bids must be solicited and documented, but advertising or direct mailings are not required. The contracts shall be let to lowest and best bidder.]

[(B)](A) The area agency on aging may waive the requirement of competitive bids for the purchase of food items when special temporary market conditions exist and the food items can be purchased for at least ten percent (10%) less than the most current bid price for the same food items.

[(4)](2) The area agency on aging shall use subgrants or contracts with service providers to provide [all services] supportive services, nutrition services, and/or in-home services under all Older Americans Act (OAA) funding sources. For waiver of this requirement, the area agency on aging shall submit a written request in accordance with the area plan preprint instructions that thoroughly documents that direct provision of service, using its own employees, is necessary—

(A) To assure an adequate supply of the service;

(B) Where those services are directly related to the area agency/'s/ on aging's administrative functions; or

(C) Where those services of comparable quality can be provided more economically by the area agency on aging.

[(5)](3) If an area agency on aging receives a waiver to provide a service directly, all applicable requirements for that service as set forth in [13/19] CSR 15-7 and [13/19] CSR 15-4 shall be met.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.125 and 13 CSR 15-4.200. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.200, effective Aug. 28, 2001. Amended: Filed Jan. 25,

2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.210 Area Agency on Aging Grievance Procedures. The department is amending, the rule title, rule purpose, and sections (1) and (2).

PURPOSE: This amendment updates terminology and legal authority.

PURPOSE: This rule requires area agencies on aging to establish written grievance procedures.

(1) Each area agency on aging shall establish written grievance procedures that provide the opportunity to appear before the governing body to the following:

(2) The written grievance procedures shall be filed with the division as an addendum to the area agency/'s/ on aging's plan and shall include, at a minimum, the following:

(D) Criteria to be used for making a final determination that include:

1. Time limitations for notification of the decision from the date of grievance hearing;

2. Reasons for the final determination and the evidence on which it was based; and

3. [Advice] Notice of the right to appeal the decision to the division [for mediation] to service providers who meet the following conditions:

A. Application to provide services under an area plan has been denied; or

B. Subgrant or contract is terminated or not renewed for reasons other than a determination that the service provider has materially failed to comply with the terms of the subgrant or contract as provided in 45 CFR [part 74, subpart M] part 75, subpart D.

AUTHORITY: section [660.050] 192.2000, RSMo [1986] 2016. This rule was previously filed as 13 CSR 15-6.090 and 13 CSR 15-4.210. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.210, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.220 Area Agency on Aging Technical Assistance, Monitoring, and Evaluation Responsibilities. The department is amending the rule title, purpose statement, and sections (1)–(4).

PURPOSE: This amendment updates terminology and statutory authority.

PURPOSE: This rule requires the area agency on aging to provide technical assistance to service providers and other organizations and to monitor and assess service provider performance.

(1) The area agency on aging shall provide technical assistance to service providers, organizations where joint program agreements are in effect, and upon request, to groups and public and private organizations that are interested in developing or expanding programs for *[the elderly]* older adults.

(2) The area agency on aging shall develop and implement an ongoing process for monitoring service providers that includes requiring periodic written financial and program reports.

(3) At least annually, the area agency on aging shall conduct a full on-site evaluation of each service provider to monitor compliance with fiscal and program standards and to provide technical assistance, if needed. The division shall have the right to require an area agency on aging to conduct more frequent on-site monitoring if there is evidence of inadequate quality or quantity of service being delivered by a service provider.

(4) The area agency on aging shall develop and implement written policies and procedures that describe how it meets its technical assistance, monitoring, and evaluation responsibilities.

AUTHORITY: section [660.050] 192.2000, RSMo [1986] 2016. This rule was previously filed as 13 CSR 15-6.130 and 13 CSR 15-4.220. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.220, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in

support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.230 Multipurpose Senior Center. The department is amending the purpose statement and sections (1)–(11).

PURPOSE: This amendment amends the purpose statement, updates terminology, regulatory references, procedural requirements, and statutory authority.

PURPOSE: This rule establishes the requirements that shall be met by an area agency on aging for *[constructing, acquiring, altering, leasing and renovating]* the acquisition, establishment, maintenance, modernization, or construction of a multipurpose senior center.

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

(1) Area agencies on aging may award *[Title III social service]* funds to a public or private nonprofit agency for the following purposes:

(A) Acquiring, *[altering, leasing or renovating a facility for use as]* establishing, maintaining, modernizing, or constructing of a multipurpose senior center; or

[(B) Constructing a facility for use as a multipurpose senior center; or]

[(C)](B) Paying the costs of professional and technical personnel required to operate multipurpose senior centers.

(2) In making multipurpose senior center awards, the area agency on aging shall give preference to facilities located in communities with the greatest numbers of *[elderly]* older adults, including those who are low-income *[minority]* minorities and those with greatest economic and social need.

(3) The area agency on aging shall assure the following general requirements will be met prior to awarding funds for a multipurpose senior center:

(A) It serves a cross-section of all segments of the *[elderly]* older adult population of its planning and service area, *[with special emphasis on]* including those who are low-income *[minority]* minorities and those *[in]* with greatest economic and social need; and

(B) It operates a program of group activities, individual services and community service, opportunities in each of the following categories:

1. Access services;

2. Community services, including advocacy-related services;
3. Services for frail, vulnerable, and at-risk *[elderly] older adults*; and
4. Nutrition services.

(4) The area agency **on aging** shall submit to the division, for review and prior approval, a written plan for purchase or construction of a multipurpose senior center with accompanying justification and documentation. The division shall approve the proposed plan based on the following criteria:

(5) The area agency **on aging** shall submit to the division, for review and prior approval, the plans and specifications for any proposed acquisition, *[alteration, renovation or construction of a multipurpose senior center facility]* establishment, maintenance, modernization, or construction of a multipurpose senior center funded with federal or state funds in order to assure that all applicable minimum construction standards shall be met, particularly the requirements of the Architectural Barriers Act of 1968, as amended.

(6) The area agency **on aging** shall submit to the division, for review *[and prior approval]*, an assurance by a licensed architect, a certified code enforcement official, or certified general contractor that the plans and specifications for any proposed alteration or renovation comply with all applicable local or state ordinances, laws, or building codes that affect/s the load-bearing structures of a multipurpose senior center funded with federal or state funds, or both. *[The division shall review to assure that the plans and specifications comply with all applicable local or state ordinances, laws or building codes.]* In the absence of *[those]* state and local codes, the *[division]* area agency **on aging** shall assure compliance with *[Chapter 23 of]* the *[Uniform]* International Building Code *[or Chapter 12 of the Standard Building Code]* 2015 Edition, which has been incorporated by reference in this rule, published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, D.C. 20001. To order 1-888-422-7233, ext. 33822, or visit the International Code Council website at <http://shop.iccsafe.org/codes/2015-international-codes-and-references.html>. This rule does not incorporate any subsequent amendments or additions.

(7) The area agency **on aging** shall require recipients of an award for *[altering, renovating or constructing]* the establishment, maintenance, modernization, or construction of a facility to be used as a multipurpose senior centers to comply with the requirements of the Davis-Bacon Act and other mandatory federal labor standards.

(8) A facility acquired *[or constructed]*, established, maintained, modernized, or constructed to be used as a multipurpose senior center shall be used for that purpose for a minimum of ten (10) years from the date of acquisition, establishment, maintenance, modernization, or construction or twenty (20) years after the completion of construction.

(9) The area agency **on aging** shall ensure that no federal or state funds shall be used for religious instruction or worship.

(10) The area agency **on aging** shall ensure that no federal or state funds shall be used for the promotion of any political point of view.

(11) The area agency **on aging** shall assure the following:

(C) In a facility that is shared with other age groups, federal or state funds shall support only—

1. That part of the facility used by older *[persons]* adults; or
2. A proportionate share of the costs based on the extent of use of the facility by older *[persons]* adults; and

(D) A multipurpose senior center program must be operated in

that facility in accordance with standards set forth in *[13/19 CSR 15-71.070].010*

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.140 and 13 CSR 15-4.230. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed June 3, 1991, effective Oct. 31, 1991. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.230, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.240 Nutrition Service Requirements. The department is amending the purpose statement and sections (1)–(4), (6)–(13), deleting section (5), and renumbering as necessary.

PURPOSE: This amendment updates terminology and statutory authority and adds dietary guidelines requirements.

PURPOSE: This rule establishes the requirements to be met by the area agency on aging to fund, establish, and operate nutrition services for [the elderly] older adults.

(1) The area agency **on aging** may award nutrition services funds to a service provider to provide meals and other nutrition services, including outreach and nutrition education, to eligible service recipients within the planning and service area (PSA).

(2) The area agency **on aging** shall assess the level of need for congregate and home-delivered meals within the PSA and maintain documentation of the method(s) used to assess level of need and how the results were used to determine levels of services to meet those needs.

(3) The area agency **on aging** may make awards for congregate and home-delivered nutrition services to a service provider that furnishes either or both type(s) of service(s). The area agency **on aging** may award federal and state funds to a service provider that delivers only home-delivered nutrition services if congregate nutrition services are also provided through the area agency **on aging**.

(4) The area agency **on aging** shall assure that *[no contract shall be entered into for]* the provisions of nutrition services *[unless that contract has been awarded through a competitive process]* are contracted for in accordance with the standards set forth in 19 CSR 15-4.200.

[(5)] Primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency may award home-delivered nutrition funds to organizations which have demonstrated an ability to provide home-delivered meals efficiently and reasonably, and will furnish assurances to the area agency that the organization will maintain efforts to solicit voluntary support and that federal funds made available to the organization will not be used to supplant funds from nonfederal sources. The area agency need not require that these organizations also provide meals to older individuals in a congregate setting.]

[(6)](5) Eligibility of individuals to receive nutrition services shall be determined as follows:

(A) Any person aged sixty (60) years or over and the spouse of that person regardless of age shall be eligible to receive congregate nutrition services;

(B) Any person aged sixty (60) years or over who is homebound by reason of illness, incapacitating disability, or is otherwise isolated shall be determined eligible for home-delivered nutrition services. Occasional escorted trips from the home for medical or other necessary services will not affect the individual's eligibility for home-delivered meals. The following conditions shall be met:

1. The area agency **on aging** shall require an assessment of the individual's eligibility for home-delivered nutrition services prior to initiation of the service and assess the individual's need for continued service at least annually after that. In emergency situations, home-delivered meals may be delivered for a maximum of five (5) days prior to the initial assessment of eligibility; and

2. The area agency **on aging** shall develop written criteria by which to determine if the spouse and/or primary caregiver who resides in the home, regardless of their age or condition of the spouse, may receive a home-delivered meal. The criteria developed shall assure that the receipt of the meal by the spouse and/or caregiver is in the best interest of the homebound older *[person] adult*;

(C) *[Persons] Adults* with disabilities under sixty (60) years of age who reside in housing facilities occupied primarily by *[the elderly] older adults* at which congregate nutrition services are provided may receive congregate nutrition services. Any person meeting these requirements also may be eligible to receive home-delivered nutrition services provided the procedures of paragraph *[(6)](5)(B)2.* are followed; and

(D) Under the Social Services Block Grant (SSBG), *[persons] adults* with disabilities under sixty (60) years of age who do not reside in housing facilities occupied primarily by *[the elderly] older adults* may be eligible to receive congregate nutrition services. Any person meeting these requirements also may be eligible to receive home-delivered nutrition services under SSBG provided procedures in paragraph *[(6)](5)(B)2.* are followed.

[(7)](6) The area agency **on aging** may allow guests under sixty (60) years of age to eat a meal at a nutrition center provided that—

- (A) An eligible service recipient is not deprived of a meal; and
- (B) The full cost of the meal is paid.

[(8)](7) The area agency **on aging** may allow nutrition center volunteers under sixty (60) years of age to eat a meal at the nutrition center. If volunteer meals are allowed, the criteria shall allow these meals only if—

- (A) An eligible service recipient is not deprived of a meal;
- (B) The volunteer has expended substantial direct effort in the preparation, service, delivery, cleanup of the meal, or a combination of these; and
- (C) The volunteer is afforded the opportunity to contribute to the cost of the meal.

[(9)](8) The area agency **on aging** shall request prior approval from the division for any new nutrition centers, construction of nutrition centers, renovation of nutrition centers, or relocation of existing

nutrition centers.

[(10)](9) The area agency **on aging** shall request prior approval, in writing, from the division for any proposed termination of a nutrition center and shall not terminate any nutrition center until written approval has been received from the division.

[(11)](10) The area agency **on aging** shall report the occurrence or suspicion of a food-borne illness to the appropriate health authorities and the division. The area agency **on aging** shall cooperate with health authorities and keep the division informed of the investigation status as well as provide notice of resolution.

[(12)](11) The area agency **on aging** shall hire or retain the services of a qualified dietitian/nutritionist who does monitoring and provides technical assistance to service providers in the areas of food and nutrition. The dietitian/nutritionist shall meet one (1) of the following qualifications:

(A) Dietitian—A person who holds a bachelor of science degree from an accredited college or university with a major in dietetics, food and nutrition, or institutional food management and is eligible to take the registration examination offered by the American Dietetic Association;

(B) Registered Dietitian (RD)—A dietitian who has successfully completed the required examination for registration with the American Dietetic Association and maintains the status by meeting continuing education requirements;

(C) Nutritionist—A person who holds a bachelor of science degree with a major in human nutrition or a major in dietetics from an accredited college or university;

(D) Food and Nutrition Specialist—A person who holds a bachelor of science degree with a major in food and nutrition or institutional food management; or

(E) Public Health Nutritionist—A person who holds a master of public health nutrition or master of science with a major in public health nutrition.

[(13)](12) The area agency **on aging** shall provide for technical assistance/training to nutrition service provider's staff and volunteers that shall include, but not necessarily be limited to, meal cost and portion control, commodity/cash use, nutrition education, nutrition policies and standards, modified diets, food buying and preparation, food inventory, menu planning, kitchen design, purchase of equipment, fire and safety procedures, sanitation, first-aid, and emergency life-saving techniques.

(A) Technical assistance and training for nutrition education, modified diets and menu planning shall be provided by a dietitian/nutritionist.

(B) In all other areas, technical assistance and training may be provided by other area agency **on aging** staff who have been trained in the subject matter.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp 1999] 2016. This rule was previously filed as 13 CSR 15-6.145 and 13 CSR 15-4.240. Original rule filed Jan. 6, 1986, effective April 30, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of

Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.250 Area Agency [USDA] on Aging Nutrition Services Incentive Program. The department is amending the rule title, purpose statement, and sections (1) and (5), deleting sections (2), (3), (4), (6), and (7), and renumbering as necessary.

PURPOSE: This amendment updates the nutrition program name, terminology, and statutory authority.

PURPOSE: This rule requires area agency on aging participation in the [United States Department of Agriculture commodity/cash program] Nutrition Services Incentive Program and describes the requirements for participating in the program.

(1) The area agency on aging shall accept and distribute [United States Department of Agriculture (USDA) commodities or cash] funds received through the Nutrition Services Incentive Program (NSIP) to nutrition service providers based on the percentage of eligible meals served within the planning and service area.

[(2) Contracts with warehouses for the storage of USDA commodities foods shall include the following:

(A) A method of receiving or rejecting commodity deliveries from USDA;

(B) A cost per unit for receiving, warehouse storage and removal of commodities;

(C) An accountable recordkeeping system;

(D) A method of handling losses and determining responsibility for losses; and

(E) A cancellation clause.

(3) Contracts for transporting commodities shall include the following:

(A) The dates or days of week on which deliveries are to be made;

(B) The charges and method of payment;

(C) The method of receiving commodities from warehouse;

(D) The refrigeration requirements for frozen foods;

(E) The method of reporting losses and responsibility for reimbursing the area agency on aging for losses;

(F) The procedure for receiving commodities at center or caterer;

(G) An accountable recordkeeping system; and

(H) A cancellation clause.

(4) The area agency shall develop a management system to assure that USDA commodities and foods purchased with USDA cash shall be used to achieve maximum benefit. The system shall include the following:

(A) The maximum amount of commodity and USDA cash foods a nutrition center may have on inventory shall be established; and

(B) The right shall be retained by the area agency to redis-

tribute foods from one (1) nutrition center to another when necessary for best utilization.]

[(5)](2) The area agency on aging shall develop procedures to assure that [USDA cash is] NSIP funds are used in compliance with [USDA] requirements under Section 311 of the Older Americans Act. These procedures shall include, but are not limited to, the following:

(A) All [cash] funds received from [USDA] NSIP shall be spent to purchase United States agricultural food items;

[(B) For area agencies electing to use commodities, the USDA cash shall not be used to purchase food items currently available from the USDA commodity food program, unless the item is in short supply (less than three (3) months' supply available to the area agency on aging) and a USDA notice of shipment due within two (2) months has not been received by the area agency for the food item;]

[(C)](B) All purchases made with [USDA cash] NSIP funds shall be documented by one (1) of the following methods:

1. If food is purchased through bid, the invoice shall show the number of units and unit cost, with a copy of the bid specification attached that contains the following statement/., "The food is to be United States-produced";

2. If food is purchased without bid, the following procedures shall apply:

A. Invoices for bread and fresh dairy products must show the number of units and unit cost. These products are assumed to be United States-produced;

B. When canned goods, meat products, and produce are purchased on a continuing basis from a vendor, a letter from him/her stating that all food supplied to the nutrition center is United States-produced will be adequate documentation. The letter shall be renewed annually; and

C. Invoices for occasional purchases shall show the number of units, unit cost, and a statement assuring that the food was United States-produced; or

3. The contract for catered meals shall contain a clause stating the [USDA cash] NSIP funds shall be spent for United States-produced foods only and shall inure only to the benefit of the nutrition program; and

[(D)](C) The area agency on aging will monitor the nutrition service provider to assure adequate documentation is maintained for all these purchases.

[(6) Prior approval of the USDA regional office shall be obtained before the area agency releases USDA commodities for use during a disaster/emergency. The area agency shall contact the division in order to initiate the approval process and provide the following information:

(A) The disaster agency that is financially responsible;

(B) The type of disaster, that is flood, tornado;

(C) The specific counties involved in the disaster;

(D) The location and name(s) of the disaster agency's contact person(s);

(E) An identification of the affected population and estimate of number of persons to be fed;

(F) The estimated number of days or weeks meals may be needed; and

(G) The number of times per day meals will be provided.

(7) During a disaster/emergency, the area agency shall keep daily records on USDA commodity use that include the following:

(A) The number of people fed;

(B) The number of meals served;

(C) The USDA commodity food items used; and

(D) The total value of each food item, including storage and delivery costs.]

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1988] 2016. This rule was previously filed as 13 CSR 15-6.150 and 13 CSR 15-4.250. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Feb. 17, 1988, effective June 15, 1988. Moved to 19 CSR 15-4.250, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.260 Outreach Services. The department is amending sections (1) and (2).

PURPOSE: This amendment updates terminology and statutory authority.

(1) Area agencies **on aging** shall provide outreach services to identify *[elderly persons]* **older adults** and inform them of the availability of services. Outreach efforts should have special emphasis on *[the]* rural *[elderly]* **older adults** and on those with the greatest economic or social need. With respect to nutrition services, outreach efforts should ensure that the maximum number of eligible persons have an opportunity to receive services.

(2) The area agency **on aging** shall provide outreach training to outreach workers which shall include, but not be limited to, the following:

(B) Problems of *[the elderly]* **older adults**;

(C) Methods of working with *[the elderly]* **older adults**;

(D) Sensitivity to needs of *[the]* minority *[elderly]* **older adults**;
and

AUTHORITY: section [660.050] 192.2000, RSMo [1986] 2016. This rule was previously filed as 13 CSR 15-6.175 and 13 CSR 15-4.260. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.260, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in

support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.270 Legal Assistance. The department is amending sections (1), (2), (5), (11), and (13).

PURPOSE: This amendment updates terminology and statutory authority.

(1) The area agency **on aging** shall award funds to the legal assistance provider(s) that most fully meets the following requirements. The legal assistance provider(s) shall—

(A) Have staff with expertise in specific areas of law affecting older *[persons]* **adults** with economic or social needs, for example, public benefits, institutionalization, and alternatives to institutionalization;

(B) Demonstrate the capacity to provide effective administrative and judicial representation in the areas of law affecting older *[persons]* **adults** with economic or social need;

(2) A legal assistance provider may not require an older *[person]* **adult** to disclose information about income or resources as a condition for providing legal assistance under this part. A legal assistance provider may ask about the person's financial circumstances as a part of the process of providing legal advice, counseling, and representation or for the purpose of identifying additional resources and benefits for which an older *[person]* **adult** may be eligible.

(5) No provider shall use funds received under the Act to provide legal assistance in a fee-generating case unless other adequate representation is unavailable. All providers shall establish procedures for the referral of fee-generating cases.

(C) Other adequate representation is deemed to be unavailable when—

1. Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims;

2. A court appoints a provider or an employee for a provider pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction; or

3. An eligible client is seeking benefits under Title II of the Social Security Act, 42 U.S.C. 401, Federal Old Age Act, Survivors and Disability Insurance Benefits; or Title ~~X~~XVI of the Social Security Act, 42 U.S.C. 1381, Supplemental Security Income for Aged, Blind, and Disabled.

(11) No funds made available to a provider under the Act shall be used to support the preparation, production, and dissemination of any article, newsletter, or other publication or written matter for general distribution which contains any reference to proposed or pending legislation unless—

(C) The provider provides a copy of any such material produced

by the provider to the area agency **on aging** within thirty (30) days after publication; and

(D) These funds are used only for costs incident to the preparation, production, and dissemination of publications to providers, providers' staff, and board members, private attorneys representing eligible clients and the area agency **on aging**, as opposed to the public at large.

(13) Nothing in this section is intended to prohibit an employee from—

(D) Making direct contact with the area agency **on aging** for any purpose.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.180 and 13 CSR 15-4.270. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.270, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.280 Ombudsman Services. The department is amending the purpose statement and section (1).

PURPOSE: This amendment updates terminology and statutory authority.

*PURPOSE: This rule requires the area agency **on aging** to support the statewide [l]Long-[t]Term [c]Care [o]Ombudsman program and establishes criteria for funding local programs.*

(1) The area agency **on aging** shall conduct ombudsman activities that support the division-administered [l]Long-[t]Term [c]Care [o]Ombudsman program. The area agency **on aging** may award funds for the provision of a [l]Long-[t]Term [c]Care [o]Ombudsman program and that award shall be based on a consideration of the degree to which the ombudsman service provider has—

(C) Developed a plan for informing and serving the [elderly] **older** residents of the identified facilities; and

AUTHORITY: sections [660.050] 192.2000 and 192.2310, RSMo [1986] 2016. This rule was previously filed as 13 CSR 15-6.185 and 13 CSR 15-4.280. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.280, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-4.290 Information and Assistance. The department is amending the purpose statement and sections (1) and (2).

PURPOSE: The amendment updates terminology and legal authority.

*PURPOSE: This rule requires the area agency **on aging** to provide information and assistance services and describes the requirements for operating the program.*

(1) The area agency **on aging** shall provide information and assistance services sufficient to ensure that all [elderly persons] **older adults** within the planning and service area have reasonably convenient access to information about the services available within their geographic region.

(2) The area agency **on aging** shall comply with divisional standards for information and assistance services (see [13/19 CSR 15-7.050]4.295).

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.190 and 13 CSR 15-4.290. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.290, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 15—Division of Senior and Disability Services
Chapter 4—Older Americans Act**

PROPOSED AMENDMENT

19 CSR 15-4.300 Record Keeping and Confidentiality. The department is amending the purpose statement and sections (1) and (2).

PURPOSE: This amendment updates terminology and legal authority.

PURPOSE: This rule establishes the length of time that the division, area agencies on aging, and service providers shall maintain records and the standards by which confidentiality of records will be maintained.

(1) The division, area agencies on aging, and service providers shall maintain all records under Title III for a minimum of three (3) years; Social Services Block Grant records shall be maintained for five (5) years.

(2) The division, area agencies on aging, and service providers shall maintain the confidentiality of records as follows:

(A) All records that identify individual recipients of alternative services shall be confidential and may be released, for administrative and program monitoring purposes only, to the following:

1. Designated employees [of the Federal Administration on Aging Regional Office VII] of the United States Department of Health and Human Services, Administration for Community Living (ACL);

2. Designated employees of the Missouri Department of [Social Services] Health and Senior Services and the Division of [Aging] Senior and Disability Services;

3. Designated employees of the area agency on aging or service provider; or

4. Court of competent jurisdiction, when subpoenaed;

(B) No information or records maintained by the [Long-term] Care [Ombudsman] program may be disclosed unless the [Long-term] Care [Ombudsman] authorizes the disclosure;

(C) Lists of names of older [persons] adults shall be used for the purpose of providing services and shall not be distributed, released, or used for any other reason;

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.015 and 13 CSR 15-4.300. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-4.300, effective Aug. 28, 2001. Amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 15—Division of Senior and Disability Services
Chapter 6—Alternative Services**

PROPOSED RESCISSION

19 CSR 15-6.020 Division Mediation Procedures. This rule established the division's mediation procedures to resolve disagreements regarding the award of subgrants or contracts between an area agency on aging and a service provider and described the circumstances under which mediation may be requested and the procedures to be followed.

PURPOSE: This rule is being rescinded as mediations are not provided in these disputes.

AUTHORITY: sections 251.070 and 536.023, RSMo 1986; Executive Order of the Governor filed Jan. 31, 1979, effective Oct. 1, 1979 and in compliance with 45 CFR 1321.15(b)(2). This rule previously filed as 13 CSR 15-6.020. Original rule filed Feb. 10, 1982, effective May 11, 1982. Moved to 19 CSR 15-6.020, effective Aug. 28, 2001. Rescinded: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 15—Division of Senior and Disability Services
Chapter [6—Alternative Services] 4—Older Americans Act**

PROPOSED AMENDMENT

19 CSR 15-16.025/4.440 Division Formal Hearings. The department is moving the rule to Chapter 4, amending sections (1)–(7) and (9)–(11), deleting section (8), and renumbering as necessary.

PURPOSE: This amendment updates the hearing procedure and statutory authority and moves the rule from Chapter 6 to Chapter 4.

(1) The division shall provide the opportunity for a formal hearing, under the following circumstances:

(B) To an area agency on aging when the division proposes to withdraw its designation [for the following reasons:] in accordance with 19 CSR 15-4.080;

[1. The area agency does not meet the requirements of federal and state regulations;

2. The area plan or plan amendment is not approved; or

3. There is substantial failure in the provisions or administration of an approved area plan to comply with federal and state regulations;]

(D) To any nutrition project that was receiving funds under the former Title VII of the Act on September 30, 1978, that an area agency proposes to defund except as provided in 45 CFR Part [74, Subpart M] 75 and has appealed the determination through the area agency **on aging** grievance procedure [and the division mediation procedure]; and

(E) To any other service provider whose application to provide services is denied or whose subgrant or contract is terminated or not renewed except as provided in 45 CFR Part [74, Subpart M] 75 and has appealed the determination through the area agency **on aging** grievance procedure [and the division mediation procedure].

(2) A written request for a formal hearing shall be filed with the director within thirty (30) calendar days following receipt of notice of the adverse action to be appealed. The written request shall state clearly the actions to be reviewed and enumerate the issues to be resolved.

(A) The director shall designate a [hearing panel of three (3)] **hearing officer that is an impartial decision-maker/s** to hear all appeals. [One (1) member] **The designated hearing officer** shall be the director or **director's** designee [who shall serve as *presiding officer of the hearing panel*].

(B) The [director or designee] **designated hearing officer** is responsible for arranging the formal hearing and, within fifteen (15) calendar days of receipt of a request for hearing, shall send written notification to all parties [concerned] **advising** of the date, time, and location of the hearing.

(E) Letters and other written material regarding matters at issue shall be considered correspondence and shall not be considered as part of the information or the record unless formally introduced by the parties involved and admitted by the [presiding officer] **designated hearing officer**.

(3) The [presiding officer] **designated hearing officer** shall assure that the aggrieved party received timely written notice of the determination that is being appealed which included the following:

(4) The [presiding officer] **designated hearing officer** shall assure that in the conduct of the hearing the aggrieved party shall have an opportunity to—

(5) The [presiding officer] **designated hearing officer** shall conduct a fair hearing, avoid delays, and maintain order. The [presiding officer] **designated hearing officer** shall have the authority to—

(6) The [presiding officer] **designated hearing officer** shall designate a reporter for the hearing who shall maintain a record of the proceedings. The record shall consist of the verbatim (tape-recorded) information, exhibits, rulings, decisions, and all other pertinent papers and requests, except for correspondence.

(7) The [hearing panel] **designated hearing officer** shall issue a final written decision, within sixty (60) calendar days of the date of the hearing, which sets forth the reasons for the [hearing panel's] **division's** decision and the evidence on which the decision is based.

[(8) *Final actions of the hearing panel may include:*

- (A) *Withdrawal of designation as appropriate;*
- (B) *Withholding of funds as appropriate;*
- (C) *Reallocation of funds as appropriate; and/or*
- (D) *Other remedies as deemed appropriate.]*

[(9)](8) The division may terminate the formal hearing procedures at any point if the division and/or aggrieved parties negotiate a written agreement, signed by both parties, that resolves the issue(s) which led to the hearing.

[(10)](9) The division shall notify an applicant for designation as a

planning and service area who receives an adverse decision from the division's formal hearing of the right to appeal to the [commissioner] **assistant secretary**.

[(11)](10) The division shall retain the complete record for a period of at least three (3) years following the date of the hearing.

AUTHORITY: sections 251.070, [and] 536.023, and 192.2000, RSMo [1986;] 2016. Executive Order of the Governor filed Jan. 31, 1979, effective Oct. 1, 1979 and in compliance with 45 CFR 1321.15(b)(2). This rule previously filed as 13 CSR 15-6.025 and 19 CSR 15-6.025. Original rule filed Feb. 10, 1982, effective May 11, 1982. Moved to 19 CSR 15-6.025, effective Aug. 28, 2001. Moved to 19 CSR 15-4.440 and amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter [7—Service Standards] 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-[7.040]4.410 Transportation Service Standards. The department is moving the rule to Chapter 4; amending the purpose statement, sections (1), (6), (7), (10), (11), (12), and (13); deleting sections (2), (3), (4), (5), (8), and (9); and renumbering as necessary.

PURPOSE: This amendment updates terminology and statutory authority and moves the rule from Chapter 7 to Chapter 4.

PURPOSE: This rule sets forth the minimum standards to be met by a transportation service provider receiving state or federal funds for the operation of transportation services for [persons aged] **adults sixty years of age and over and [handicapped] adults with disabilities between age[d]s eighteen [through] and fifty-nine and applies to all transportation service delivery systems, both direct and indirect.**

(1) [The] **Contracted** transportation service providers and **transportation service provided directly by the area agency on aging to eligible service recipients** shall meet the following requirements:

(C) Service will be provided for the duration of a contract period or as agreed upon by the [AAA] **area agency on aging** and service provider; [and]

(D) Have a program manual available to all employees and volunteers detailing its operational policies, procedures, and general requirements applicable to service provision. **Program manual shall include:**

1. Safety precautions for drivers and passengers;
2. Information on the procedure for denial of service, provided in sections (4)–(7);

(E) Ensure all drivers have completed orientation training prior to transporting eligible service recipients;

(F) Ensure that all drivers of any vehicle used in transportation have a valid driver's license as required by Missouri law—

1. Class F: required to transport for pay for a transportation network company;

2. Class E: required to transport for pay up to fourteen (14) passengers unless working for a transportation network company; or

3. CDL: required for transporting for pay fifteen (15) or more passengers;

(G) Ensure that all vehicles used for transportation shall be in compliance with all state and federal laws, rules, and regulations including the Americans with Disabilities Act; and

(H) Be in compliance with all general requirements for service providers provided in 19 CSR 15-7.010.

[(2)] A driver is any individual engaged in the operation of a motor vehicle providing transportation services to persons over age 60 and/or disabled between the ages of 18 and 59; and whose sponsoring agency and/or employer is a recipient of funding through the Division of Aging and/or an area agency on aging. Documentation shall be maintained by the service provider, on each driver, that includes:

(A) The driver's health record. Documentation, signed by the driver, that no physical or health limitation exists that prevents competent operation of the motor vehicle or ability to assist any service recipient in and out of the vehicle who requires or requests it;

(B) Either a current and valid common carrier or livery permit issued by regulatory entities such as the Missouri Department of Economic Development, Division of Transportation, or local municipal taxi/livery ordinances attesting to the driver's qualifications to transport persons. Or, in lieu of a license or permit issued by a cognizant regulatory body, the driver's driving record showing that the driver has had no driving while intoxicated or under the influence of a controlled substance conviction within three (3) years prior to driving for the transportation service provider and that the driver has not had driver/chauffeur's license revoked within three (3) years prior to driving for the provider;

(C) A copy of the driver's valid and current chauffeur's license and/or driver's license; and

(D) Documentation of the driver's participation in orientation and in-service training.

(3) Orientation and In-Service Training.

(A) Prior to actual transport of service recipients, each driver shall have completed the transportation service providers orientation training. Any volunteer who even occasionally transports shall have received at least a brief orientation.

(B) Orientation shall include the following:

1. Transportation service provider policies and procedures;
2. Characteristics of the aging process and major disabling conditions;
3. Use of common assistive devices by elderly and handicapped persons;
4. Methods of handling wheelchairs;
5. Methods of moving, lifting and transferring passengers with mobility limitations or who use assistive devices;
6. Operation of lifts, ramps and wheelchair securement devices if the vehicle to be operated is equipped with them;
7. Use of a fire extinguisher;
8. Methods of keeping accurate and accountable

records or reports, or both;

9. Written instructions on proper actions to be taken in problem situations (for example, emergency situations, passenger problems and vehicle breakdowns); and

10. Successful completion of an in-service training course in first aid or emergency care that included at least:

A. Basic first aid;

B. Cardiopulmonary resuscitation;

C. Heimlich maneuver;

D. Guidelines on when to attempt first aid or when to take alternative action; and

E. Instruction on universal precautions regarding handling body fluids, including how to use a blood-borne pathogen kit.

(C) The transportation service provider should require drivers to participate in a defensive driving training program.

(D) Other personnel, such as schedulers and dispatchers, should receive training appropriate to their job functions.

(4) Fiscal and Program Records.

(A) Fiscal and program records shall be submitted to the contracting agency on a timely and proper basis.

(B) The service provider shall maintain time records that document the number of hours worked per week for each employee and volunteer.

(C) Documentation verifying the recipient's use of the service provider's transportation system shall be maintained.

(D) The transportation service provider shall have a method, approved by the contracting agency, for documenting units of service delivered and obtaining an unduplicated count of individual service recipients.

(5) Files and records regarding vehicles and/or vehicular fleets shall be kept by the provider that should contain the following documentation:

(A) Vehicle ownership or lease agreement;

(B) Current vehicle license;

(C) Current vehicle safety inspection as required by state law;

(D) Vehicle maintenance schedule including the date of each service, repair and replacement; and

(E) That transportation service provider-owned or leased vehicle is properly insured.]

[(6)](2) Any driver, using personally-owned vehicles to transport service recipients shall maintain proper vehicle insurance and shall sign an agreement indicating understanding and acceptance of liability.

[(7)](3) Vehicles shall meet the following requirements:

(A) All vehicles shall be [legally] licensed **and registered in accordance with Missouri law**;

(B) All vehicles shall receive a vehicle safety inspection, as required by state law, **and** shall be clean and in good repair;

(C) All vehicles shall carry [the following] safety equipment[:]
as required by Missouri law;

1. Extra electrical fuses;

2. Fire extinguisher, ABC type;

3. Three (3) reflective orange triangles or similar emergency warning devices;

4. Spare tire and jack unless they are radio/phone equipped and able to summon assistance;

5. Flashlight;

6. Ice scraper;

7. Emergency first-aid kit; and

8. Blood-borne pathogen kit;]

(D) All vehicles shall have for each passenger an available seat that is securely fastened to the floor of the vehicle. Cars and vans shall have a useable seat belt, **and** include seat belt extenders as needed,

for each person being transported;

[(E) All vans and buses shall have accessible emergency exit(s) with appropriate emergency procedures posted in compliance with Federal Motor Vehicle Safety Standard No. 217; and

(F) All vans and buses shall have a stationary or removable step to aid entry and exit of the vehicle. This step shall be capable of safely supporting three hundred pounds (300 lbs.); shall be placed that it is no more than twelve inches (12") above ground level; and shall have a nonskid top surface no less than eight inches by twelve inches (8" × 12"). Removable steps shall be properly secured while the vehicle is in motion.]

(E) All vans and buses shall be in ADA compliance in accordance with 49 CFR Part 38, Subpart B; and

(F) All vehicles shall be insured in accordance with Missouri law.

[(8) Vehicle requirements transporting an individual remaining in a wheelchair are as follows:

(A) Wheelchair safety locks shall be available and used when a wheelchair is in use during transport if a vehicle is ramp/lift equipped;

(B) All wheelchair lifts used on vehicles shall be certified as being capable of regularly servicing a minimum capacity of six hundred pounds (600 lbs.); and

(C) All wheelchair ramps used on vehicles shall be certified as being capable of regularly servicing a minimum capacity of four hundred pounds (400 lbs.).

(9) Drivers shall observe the following safety precautions:

(A) Assure that all passengers are seated before vehicle is put into motion;

(B) Encourage passengers to use seat belts;

(C) Not allow firearms, alcoholic beverages in opened containers, unauthorized controlled substances or highly combustible materials to be transported in vehicle;

(D) Allow service animals in the vehicle, as needed; however, other animals shall not be allowed;

(E) Assure that all packages are safely stored before putting the vehicle in motion;

(F) Assist each passenger to enter and exit the vehicle as needed;

(G) Assure that passengers enter and exit the vehicle in unobstructed and safe locations;

(H) Observe all posted speed limits and modify driving according to weather hazards;

(I) Not use alcohol prior to or while driving;

(J) Not use any prescribed or patent medication that may impair driving ability prior to or while driving; and

(K) Not smoke during transport of riders.]

[(10)](4) Drivers are authorized to deny transportation to a service recipient attempting to board the vehicle who, in the judgment of the driver—

(A) Is intoxicated;

(B) Is too ill or experiencing an emergency [an emergency] health episode;

(C) Has a mobility limitation that prevents safe entry or exit from the vehicle even with reasonable human or mechanical assistance;

(D) Demonstrates violent or unruly behavior; or

(E) Insists on transporting prohibited items.

[(11)](5) Drivers shall report incidents of denial of transportation to the transportation service provider. Written documentation of each incident shall be maintained.

[(12)](6) Without written approval of the contracting agency, the transportation service provider shall not suspend service to a passen-

ger for more than five (5) consecutive days due to problems with the service recipient.

[(13)](7) The transportation service provider shall submit to the contracting agency a written request to suspend service indefinitely to any service recipient who, in the provider's judgment, exhibits behavior—

(A) That is contrary to these standards; or

(B) Which has been and continues to be hazardous to the safety of self or others.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.165 and 19 CSR 15-7.040. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-7.040, effective Aug. 28, 2001. Moved to 19 CSR 15-4.410 and amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDSDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter [7—Service Standards] 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-[7.050]4.295 Information and Assistance Service Standards. The department is moving the rule to Chapter 4 and amending sections (2), (5), and (7)–(11).

PURPOSE: This amendment updates terminology and statutory authority and moves the rule from Chapter 7 to Chapter 4.

PURPOSE: This rule sets forth minimum standards for information and assistance service providers to assure that all older [people] adults within a planning and service area have reasonable access to services.

(2) The service provider shall—

(F) Utilize staff specially trained to inform [the elderly] older adults or their advocates of the opportunities and services available;

(5) Training shall be provided to all information and assistance staff, paid and volunteer, to ensure adequate delivery of information and assistance services. Training shall consist of the following components:

(A) Preservice orientations and training which should include:

1. The role, purpose, and function of the information and assistance service;

2. Skills training in the areas of interviewing techniques, attitudes, listening, communications, proper telephone usage, assessment techniques, information and assistance procedures, follow-up,

data reading, maintenance of records, use of resource file; and

3. Recognizing abuse/neglect and exploitation of *[the elderly] older adults*, the requirements and limitations of sections *[660.250] 192.2400–192.2505*, RSMo, and procedures for reporting to the division’s hotline;

(7) The resource file shall coin a list of public, private, and voluntary organizations that provide essential human services and opportunities to *[the elderly] older adults*. Each organization listing shall include at least:

(8) Records shall be maintained of all transactions. Reports shall be in a manner that identification of older *[people] adults* who use the service is not revealed or accessible to anyone other than staff members assisting them.

(9) In the event a referral is made which requires follow-up, a client intake form shall be started. Client intake instruments shall have the capacity to gather at least the following information:

(10) If follow-up is provided, the results of the follow-up shall indicate the final disposition and notation shall be made as to whether service is—

(C) Incomplete because of, but not limited to—

1. Insufficient availability of service;
2. Inquirer’s refusal to accept available service;
3. Inquirer’s refusal or unwillingness to contact service; or
4. Failure of inquirer to meet eligibility requirements (for example, income, residence, age, or sex of the inquirer).

(11) The service provider annually shall prepare and submit to the division reports of services and service agencies about which information given or to which referrals were made and the results of follow-up efforts with service providers and persons who sought assistance.

AUTHORITY: section [660.050] 192.2000, RSMo [Supp. 1999] 2016. This rule was previously filed as 13 CSR 15-6.191 and 19 CSR 15-7.050. Original rule filed Jan. 6, 1986, effective April 30, 1986. Amended: Filed Aug. 28, 2000, effective March 30, 2001. Moved to 19 CSR 15-7.050, effective Aug. 28, 2001. Moved to 19 CSR 15-4.295 and amended: Filed Jan. 25, 2022.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Health and Senior Services, Division of Senior and Disability Services, Melanie Highland, Division Director, PO Box 570, Jefferson City, MO 65102-0570. Telephone: (573) 526-3626. Email: DSDDirectorsOffice@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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 15—Division of Senior and Disability Services Chapter [7—Service Standards] 4—Older Americans Act

PROPOSED AMENDMENT

19 CSR 15-[7.060]4.245 Nutrition Service Standards. The

department is moving the rule; amending the purpose statement, sections (1)-(4), (6)-(11), and (13)-(15), and the chapter number; deleting sections (5) and (12); and renumbering as necessary.

PURPOSE: The amendment updates terminology, legal authority, and procedural requirements, and moves the rule from Chapter 7 to Chapter 4.

PURPOSE: This rule establishes the minimum standards for providing nutrition services for [the elderly] older adults with federal or state funds.

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

(1) A unit of nutrition service is one (1) **qualifying** meal—

(2) Nutrition service providers shall provide services and meet all requirements set forth in *[13]19* CSR 15-7.010.

(3) Staffing and Training.

(A) There shall be an administrator who shall be responsible for the operation of the senior center and *[the service] nutrition services provided by the center*. The administrator, or a person designated by the administrator, shall be present in the senior center at all times the senior center is open.

(C) Training Requirements.

1. Administrator—six (6) hours['] orientation plus twelve (12) hours['] supervised on-the-job training and an additional four (4) hours['] in-service training per quarter or sixteen (16) hours annually.

2. Cook—four (4) hours['] orientation plus six (6) hours['] supervised on-the-job training and additional two (2) hours['] in-service training per quarter or eight (8) hours annually.

3. Cook helper—two (2) hours['] orientation plus four (4) hours['] supervised on-the-job training and an additional one (1) hour in-service training per quarter or four (4) hours annually.

(4) Record Keeping. The following additional records shall be maintained by nutrition service providers:

(A) Daily record documenting persons who receive meals, both congregate and home-delivered, following a method developed by the area agency **on aging** and approved by the division;

(B) Meal count or reports, including total *[United States Department of Agriculture (USDA)] Nutrition Services Incentive Program (NSIP)*-eligible meals, *[USDA] NSIP*-eligible meals served to low-income *[elderly] older* minority *[persons] adults*, meals served to *[handicapped persons] adults with disabilities* eighteen to fifty-nine (18–59) and meals served to ineligible guests and staff;

[(5) Nutrition Education.

(A) Each senior center shall provide nutrition education programs to service recipients at least quarterly. Programs and literature shall be planned approved by a qualified dietitian or nutritionist.

(B) Each home-delivered meals provider shall provide nutrition education materials to homebound recipients on a quarterly basis.]

[(6)](5) Equipment Requirements.

(A) Whether the senior center is catered or has an on-site food

preparation kitchen, adequate equipment shall be available to keep refrigerated foods at or below forty-one degrees Fahrenheit (41°F), heated foods above one hundred forty degrees Fahrenheit (140°F) and frozen foods at or below zero degrees Fahrenheit (0°F).

(B) Specific equipment required for all centers serving meals is as follows:

1. A home-style or commercial range;
2. A home-style or commercial refrigerator;
3. A handwashing sink;
4. A three- (3-)/- vat sink or other acceptable method for dish-washing;
5. A hot table if the senior center serves a total of thirty (30) meals or more per day (if the senior center serves fewer than thirty (30) meals per day, the meals can be served directly from the insulated carriers, provided meal service begins immediately after the food arrives);
6. A cold table or another acceptable method of keeping cold food at the proper temperature during food service; and
7. Additional equipment as needed and required by the area agency **on aging**.

(C) Additional equipment required for on-site food preparation senior centers is as follows:

1. A range with an automatic range-hood extinguishing system, preferably commercial;
2. Adequate number of refrigerators and freezers, preferably commercial;
3. A three- (3-)/- vat sink; and
4. Other equipment as determined by the area agency **on aging** (ice machine, mixer, dishwasher and the like).

(D) Insulated carriers for delivery of the food are required for senior centers receiving bulk prepared foods.

[(7)](6) Menu Planning Requirements.

(A) If one (1) meal per day is served, it shall contain a minimum thirty-three and one-third percent (33 1/3%) of the daily *[Recommended Dietary Allowance (RDA)] Dietary Reference Intakes (DRI)* as established by the Food and Nutrition Board of the *[National Research Council of the National Academy of Sciences] National Academies of Sciences, Engineering, and Medicine*. A minimum of sixty-six and two-thirds percent (66 2/3%) of the *[RDA] DRI* shall be provided if two (2) meals are served, and one hundred percent (100%) of the *[RDA] DRI* shall be provided if three (3) meals are served. **The area agency on aging shall follow the U.S. Department of Agriculture and U.S. Department of Health and Human Services *Dietary Guidelines for Americans, 2020-2025, 9th Edition, December 2020, which has been incorporated by reference in this rule, as published by the United States Department of Health and Human Services, 200 Independence Avenue, S.W. Washington, D.C. 20201, and the United States Department of Agriculture, 1400 Independence Ave., S.W. Washington, D.C. 20250. A copy is available on Dietary Guidelines for Americans website at <https://www.dietaryguidelines.gov/>. This rule does not incorporate any subsequent amendments or additions.***

(B) A twenty to twenty-eight (20–28) day menu cycle shall be developed to be repeated for a three- (3-) month period. Suggestions from service recipients shall be solicited regarding menu choices.

(C) Standardized recipes shall be used to assure consistent quality and quantity.

(D) Menus shall be reviewed and certified by *[a nutritionist or dietitian. This] an individual [must] who* meets the standards set forth in *[13] 19 CSR 15-4.240(12) at least annually*. Copies of all certified menus shall be submitted to the area agency **on aging** and shall be maintained for at least *[one (1)] three (3) years*.

(E) Menu substitutions shall be made in accordance with the established procedures of the area agency **on aging**.

[(F) Menus shall conform to the meal patterns and principles of menu planning provided by the division. Refer to

menu plan at the end of this rule which is incorporated by reference.]

[(8)](7) Special menus [requirements are as follows:]

[(A) Special menus] shall be provided to meet the particular dietary needs arising from the health requirements, religious requirements, or [ethnic] cultural backgrounds of service recipients, where [appropriate;] reasonable.

[(B) At a minimum, minor modifications shall be made to the regular menus as follows:

1. For a diabetic diet, a baked, broiled or boiled meat entree, fresh or unsweetened canned fruits for dessert, two percent (2%) milk and vegetables with no fat seasonings shall be provided;

2. For a four gram (4 gm) sodium diet, salt shall be reduced to one-half (1/2) the amount indicated in baked goods recipes, no salt or high sodium condiments added in cooked foods and a low sodium entree choice offered if a high sodium entree is on the regular menu, low sodium vegetable choice offered if a high sodium vegetable is the regular menu (for example, sauerkraut);

3. For a low-fat/cholesterol diet, a baked, broiled or boiled meat entree (except that no liver, no cheese containing more than five grams (5 gm) fat per ounce, and no egg yolks shall be served as entrees), skimmed milk, polyunsaturated margarine in cooking and for table use (up to one (1) teaspoon) and a low-fat dessert shall be provided; and

4. All other food items may be as listed on the regular menu;]

*[(C)](A) Special meals provided for health requirements shall be planned, prepared, and served under the supervision/consultation of a dietitian/nutritionist. Copies of all certified menus shall be maintained on file by the area agency **on aging** for at least *[one (1)] three (3) years[;]*.*

[(D)](B) The persons responsible for the service of special diets shall be trained to make appropriate substitutions based on food values[;].

[(E)](C) Diet counseling, if provided, shall be conducted by a dietitian/nutritionist, according to the individual's diet prescription which shall be obtained from the service recipient's physician[;].

[(F)](D) A diet prescription may be obtained for persons receiving home-delivered special meals. Any prescription on file shall be kept current and shall be reviewed at least annually with the service recipient's physician[;].

[(G)](E) Individuals with a strict dietary regimen shall be referred to the medical profession for management of dietary needs[; and].

[(H) The current Missouri Diet Manual shall be used as a reference in developing special diets.]

[(9)](8) Requirements for handling prepared foods are as follows:

(A) A two (2) ounce separate sample of each *[potentially hazardous] time/temperature control for safety* food item served shall be refrigerated and kept at least seventy-two (72) hours. Sample(s) shall be available for analysis by the Department of Health and Senior Services if a food-borne illness is suspected;

(B) *[Potentially hazardous] Time/temperature control for safety* food which has been held at one hundred forty degrees Fahrenheit (140°F) or higher over four (4) hours or between forty-one degrees and one hundred forty degrees Fahrenheit (41°–140°F) for two (2) hours and any prepared food that has lost its quality shall not be served and shall be destroyed;

(C) Foods that are usually considered safe to store, such as fruits, vegetables, cake, breads, cookies, ice cream, and fruit pies, may be retained for use while quality remains acceptable;

(D) The proper equipment shall be used to maintain hot foods at or above one hundred forty degrees Fahrenheit (140°F) and cold foods at or below forty-one degrees Fahrenheit (41°F) while serving. Hot and cold food temperatures shall be checked immediately prior

to service and recorded daily. Records must be kept for *[six (6) months]* **three (3) years** at the center;

(E) When cooling, food shall be placed no more than two inches (2") deep in a container, covered and immediately placed in the refrigerator or freezer so it will cool to forty-one degrees Fahrenheit (41°F) or below as rapidly as possible. Once food is cooled to forty-one degrees Fahrenheit (41°F) or below, it may be stored in a container more than two inches (2") deep;

(F) When transporting prepared foods, the following procedures shall be used:

1. Hot food shall be delivered within three and one-half (3 1/2) hours following end preparation time. This limit includes the time required for packaging foods by the caterer, transporting to the centers, holding time at the center, packaging meals for home-delivered meal recipients, and transporting meals to the home; and

2. Hot foods delivered to the center shall be at a minimum temperature of one hundred forty degrees Fahrenheit (140°F) and cold foods shall be at a maximum temperature of forty-one degrees Fahrenheit (41°F). A daily record of the delivery time and temperature of the food when received shall be kept at each center. Records must be kept for *[six (6) months]* **three (3) years** at the center;

(G) Meal service shall be scheduled so that food is available for at least thirty (30) minutes after serving begins;

(H) Appropriate serving utensils shall be used for food portion control;

(I) Appropriate food containers and utensils for **service recipients who are blind or otherwise [handicapped service recipients] disabled** shall be available for use upon request; **and**

(J) *[Service recipients should be discouraged from taking potentially hazardous foods from the center.]* **Area agencies on aging may develop their own policies, in accordance with local public health codes, for allowing leftover foods to be removed from the center.** It is recommended that centers include information about food safety in nutrition education; *and*.

[(K) Leftover foods shall not be given or sold to another organization, employee, volunteer or service recipient to take from the center.]

[(10)](9) Food Storage Requirements for All Foods, Including USD Commodities.

(A) Cleaning supplies and *[clearly labeled]* pesticides shall be **clearly labeled and** stored in separate locations from food products;.

(B) Food products shall be stored at least six inches (6") above the floor;.

(C) Dry food storage shall be well-ventilated, away from direct sunlight and maintained between fifty degrees Fahrenheit and seventy degrees Fahrenheit (50°F-70°F);.

(D) All refrigerated foods shall be maintained at or below forty-one degrees Fahrenheit (41°F);.

(E) Frozen foods shall be maintained at or below zero degree Fahrenheit (0°F);.

(F) Inventory of all foods shall be depleted on a first-in/first-out basis;.

(G) Adequate transportation for all foods shall be provided as required; *and*.

(H) Thermometers shall be kept in each refrigerator and freezer and temperatures shall be checked and recorded daily. Records must be kept for *[six (6) months]* **three (3) years** at the centers.

[(11)](10) Health and Sanitation Requirements.

(A) Personnel with symptoms of communicable disease or open or infected wounds shall not be permitted to handle food.

(B) All food handlers shall use effective hair restraints. Effective restraints are devices which both cover and hold hair, such as hair nets, caps, hats, and bandannas. Hair spray is not an acceptable hair restraint.

(C) Equipment and work areas shall routinely be cleaned and san-

itized according to a posted written schedule.

(D) Disposables shall be discarded by a locally approved sanitary method.

(E) If a garbage disposal is not used, waste shall be kept in leak-proof containers with close-fitting lids and disposed of daily. Waste containers shall be cleaned daily.

(F) Dishes and utensils washed in water temperatures of less than one hundred fifty degrees Fahrenheit (150°F) and rinsed at less than one hundred eighty degree Fahrenheit (180°F) shall be chemically sanitized. When single-tank, stationary-rack, and door-type machine using chemicals for sanitizing are used, the wash water shall not be less than one hundred twenty degrees Fahrenheit (120°F) and rinse water not less than seventy-five degrees Fahrenheit (75°F). If the dishwashing machine uses hot water for sanitizing, the wash water shall be at least one hundred fifty degrees Fahrenheit (150°F) and the final rinse at least one hundred-eighty degrees Fahrenheit (180°F). A test kit or other device that accurately measures the parts per million concentration of the solutions shall be provided and used.

(G) All dishes and utensils shall be air dried.

(H) Disposable towels and soap shall be available at the handwashing sink in the kitchen.

(I) A handwashing sign shall be posted in the restroom.

(J) Methods of insect and rodent control shall be used on a regularly scheduled basis.

(K) A product thermometer must be available and used to check internal food temperatures required.

[(12) USDA Commodity Foods or Foods Purchased With USDA Cash.

(A) The nutrition provider shall—

1. Accept and use USDA commodity foods or foods purchased with USDA cash that are made available; and

2. Provide adequate transportation for USDA foods as required.]

[(13)](11) Nutrition service providers shall—

(A) Provide outreach services;

(B) Coordinate activities with the [Missouri Division of Family Services] Missouri Department of Social Services, Family Support Division to facilitate participation of eligible persons in the [Food Stamp Program] Supplemental Nutrition Assistance Program (SNAP) and assist service recipients in taking advantage of the benefits available to them under [the Food Stamp Program] SNAP. All centers may be authorized to accept [food stamps] SNAP benefits; and

(C) Comply with the requirements of the area agency on aging regarding eligibility of individuals to receive nutrition services (see [13]19 CSR 15-4.240(7)6)-(9)8).

[(14)](12) Senior Centers.

(A) Senior centers shall be visible within the community and located as close as possible [and, where feasible and appropriate, within walking distance] to the majority of [the elderly persons] older adults.

(B) Physical Plant Requirements.

1. Senior centers shall have a minimum of fifteen (15) square feet per service recipient to assure adequate space for programs and activities. Food preparation, office, and storage areas are not included in this minimum.

2. Adequate storage space shall be available as well as adequate space for hanging and storing coats, wraps, and packages.

3. Senior centers shall be clean and have an attractive appearance. Walls, ceilings, floors, and furniture in a center shall be of smooth, easily cleanable materials. Maintenance shall be performed daily to assure the center is clean, neat, and safe.

4. Adequate lavatory facilities shall be available. The number of rest rooms shall be adequate for the size of the facility and number of persons served with at least one (1) barrier-free restroom each for men and women.