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SALUS POPULI SUPREMA LEX ESTO

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



JASON KANDER
SECRETARY OF STATE

MISSOURI
REGISTER

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

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Washington University Law Library Washington University Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6443	Kansas City Public Library 14 West 10th Street Kansas City, MO 64105 (816) 701-3546	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65211-7298 (573) 882-9369	Springfield-Greene County Library 4653 S. Campbell Springfield, MO 65801-0760 (417) 874-8110
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Library Maryville University 13550 Conway Road St. Louis, MO 63141-7232 (314) 529-9494	Miller Nichols Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	School of Law University of Missouri-Columbia 224 Hulston Hall Columbia, MO 65211-0001 (573) 882-1125	
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	St. Joseph Public Library 927 Felix Street St. Joseph, MO 64501-2799 (816) 232-8151		

HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

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

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within 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 paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

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.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.110 Reporting Emission Data, Emission Fees, and Process Information. The commission proposes to amend subsection (3)(A). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end

of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule provides procedures for reporting emission related information and establishing emission fees for the purpose of state air resource planning. The purpose of this rulemaking is to change the air emission fee structure pursuant to section 643.079.10, RSMo in SB 642. This proposed rulemaking will increase the emission fee for permitted sources from forty dollars (\$40) to forty-eight dollars (\$48) per ton of air pollution. The forty-eight dollars (\$48) emission fee becomes effective January 1, 2016, starting with calendar year 2015 emissions. The increased emission fee will enable the department's Air Pollution Control Program to remain solvent and maintain its authority as the implementing agency of the federal Clean Air Act in the state of Missouri. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is section 643.079.10, RSMo in Senate Bill 642 and the May 19, 2014 Stakeholder Fee Presentation.

(3) General Provisions.

(A) Emission Fees.

1. Any installation subject to this rule, except sources that produce charcoal from wood, shall pay an annual emission fee *[of forty dollars and no cents (\$40.00)]* per ton of applicable pollutant emissions identified in Table 2 of this rule *[for calendar years 2013, 2014, and 2015] based on previous calendar year emissions* and in accordance with paragraphs (3)(A)2. through (3)(A)7. of this rule. **The emission fee shall be forty dollars and no cents (\$40.00) per ton until January 1, 2016, after which the fee shall be forty-eight dollars and no cents (\$48.00) per ton.**

2. For Full Emissions Reports, the fee is based on the information provided in the installation's emissions report. For sources which qualify for and use the Reduced Reporting Form, the fee shall be based on the last Full Emissions Report.

3. The fee shall apply to the first four thousand (4,000) tons of each air pollutant subject to fees as identified in Table 2 of this rule. No installation shall be required to pay fees on total emissions in excess of twelve thousand (12,000) tons for any reporting year. An installation subject to this rule which emitted less than one (1) ton of all pollutants subject to fees shall pay a fee for one (1) ton.

4. An installation which pays emission fees to a holder of a certificate of authority issued pursuant to section 643.140, RSMo, may deduct those fees from the emission fee due under this section.

5. The fee imposed in paragraph (3)(A)1. of this rule shall not apply to NH₃, CO, PM_{2.5}, or HAPs reported as PM₁₀ or VOC, as summarized in Table 2 of this rule.

6. Emission fees for the reporting year are due June 1 after each reporting year. The fees shall be payable to the Missouri Department of Natural Resources.

7. To determine emission fees, an installation shall be considered one (1) source as defined in section 643.078.2, RSMo, except that an installation with multiple operating permits shall pay emission fees separately for air pollutants emitted under each individual permit.

TABLE 2. Pollutant Fee Applicability

Pollutants Subject to Fees	Pollutants Not Subject to Fees
PM ₁₀ pri	PM _{2.5} pri
SO ₂	CO
NO _x	NH ₃
VOC	HAPs reported as PM ₁₀ or VOC
HAP	
Lead	

AUTHORITY: section 643.050, RSMo Supp. [2012] 2013. Original rule filed June 13, 1984, effective Nov. 12, 1984. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 2, 2014.

PUBLIC COST: This proposed amendment will cost one hundred eighty-eight thousand five hundred ninety dollars (\$188,590) in FY 2016. For the years after FY 2016, the total annual aggregate cost is one hundred seventy thousand six hundred fifty dollars (\$170,650) for the life of the rule. Note the attached fiscal note for assumptions that apply.

PRIVATE COST: This proposed amendment will cost \$1,068,675 in FY 2016. For the years after FY 2016, the total annual aggregate cost is nine hundred sixty-seven thousand nineteen dollars (\$967,019) for the life of the rule. Note the attached fiscal note for assumptions that apply.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., October 30, 2014. The public hearing will be held at the Missouri Department of Natural Resources, Northeast Regional Office, 1709 Prospect Drive, North Conference Room, Macon, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., November 6, 2014. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** 10 – Department of Natural Resources
Division Title: 10 – Air Conservation Commission
Chapter Title: 6 – Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

Rule Number and Name:	10 CSR 10 – 6.110 Reporting Emission Data, Emission Fees, and Process Information
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
2,229 Total Facilities of which 143 are Public Entities (See list of affected entities below.)	\$ 170,650 Annualized Aggregate \$ 853,250 For Projected 5-Year Life

III. WORKSHEET

Actual FY 2013 Fee Revenue Collected = \$7,651,695
 Projected FY 2014 Fee Revenue Collected = \$7,192,593 (Assuming 6% decrease in fee revenue from FY 2013 revenue)
 Projected FY 2015 Fee Revenue Collected = \$6,617,186 (Assuming 8% decrease in fee revenue from FY 2014 revenue)
 Projected FY 2016 Fee Revenue Collected = \$6,286,326 (Assuming 5% decrease in fee revenue from FY 2015 revenue)

FY 2016 Projected Revenue Collection From Emission Fees = \$6,286,326
 Current Emission Fee = \$40.00

$$\text{FY 2016 Projected Chargeable Tons of Emissions/Year} = \frac{\text{FY 2016 Projected Revenue Collection From Emission Fees}}{\text{Current Emission Fee}}$$

FY 2016 Projected Chargeable Tons of Emissions/Year = 157,158
 Proposed Emission Fee = \$48.00

Fiscal Year	Percent yearly decrease in Collection from Fees	Tons of Chargeable Emissions	Estimated Emission Fee Collection (with fee change)	Estimated Emission Fee Collection (without fee change)	Cost to Affected Entities due to Fee Increase
2016 (1/1 - 6/30/16)	—	157,158	\$7,543,591	\$6,286,326	\$1,257,265
2017	5%	149,300	\$7,166,412	\$5,972,010	\$1,194,402
2018	5%	141,835	\$6,808,091	\$5,673,409	\$1,134,682
2019	5%	134,743	\$6,467,687	\$5,389,739	\$1,077,948
2020	5%	128,006	\$6,144,302	\$5,120,252	\$1,024,050
2021 (7/1 - 12/31/20)	5%	121,606	\$0*	\$0*	\$0*
Cost projected over 5 years			\$34,130,084	\$28,441,737	\$5,688,347

* Although chargeable emissions are accrued, emission fees are collected in the later part of FY 2021.

157,158 = Projected chargeable tons per year for FY 2016 fee collection
 5% = Projected decrease in chargeable tons of emissions per year beyond FY 2016
 \$48.00 = Proposed new emissions fee
 \$40.00 = Existing emissions fee
 15% = Estimated percentage of total chargeable emissions attributable to public entities

	Projected Total Emission Fees Collected (with proposed new fee) - Public & Private Entities						
	FY 2016 (1/1-6/30/16)	FY 2017*	FY 2018	FY 2019	FY 2020	FY 2021 (7/1-12/31/20)	5-Year Cost
Projected chargeable tons per year for Fee Collection	157,158	149,300	141,835	134,743	128,006	121,606	832,649
Emission Fees	\$7,543,591	\$7,166,412	\$6,808,091	\$6,467,687	\$6,144,302	\$0***	\$34,130,084

	Projected Total Emission Fees Collected (with existing fee) - Public & Private Entities						
	FY 2016 (1/1-6/30/16)	FY 2017*	FY 2018	FY 2019	FY 2020	FY 2021 (7/1-12/31/20)	5-Year Cost
Projected chargeable tons per year for Fee Collection	157,158	149,300	141,835	134,743	128,006	121,606	832,649
Emission Fees	\$6,286,326	\$5,972,010	\$5,673,409	\$5,389,739	\$5,120,252	\$0***	\$28,441,737

New/Existing Emission Fees Cost Difference For Public & Private	\$1,257,265	\$1,194,402	\$1,134,682	\$1,077,948	\$1,024,050	\$0***	
New/Existing Emission Fees Cost Difference For Public Only (15% of Public & Private)	\$188,590	\$179,160	\$170,202	\$161,692	\$153,608	\$0***	

Projected 5-Year Aggregate Increase in Emission Fee Amount Collected	\$5,688,347
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Estimated Annualized Aggregate For Public and Private Entity Emission Fee Cost For This Amendment**	\$1,137,669
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Estimated Annualized Aggregate For Public Entity Cost Only For This Amendment (15% of Public & Private)	\$170,650
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- * The first full fiscal year for this rulemaking is FY 2017.
- ** Difference in estimate annualized aggregate costs when raising \$40.00 fee to \$48.00.
- *** Although chargeable emissions are accrued, emission fees are collected in the later part of FY 2021.

List of Affected Entities:

SIC Code	SIC Description	# of 2012 Affected Entities (Public and Private)
01	AGRICULTURAL PRODUCTION - CROPS	1
02	AGRICULTURAL PRODUCTION - LIVESTOCK AND ANIMAL SPECIALTIES	3
07	AGRICULTURAL SERVICES	40
10	METAL MINING	11
12	COAL MINING	6
13	OIL AND GAS EXTRACTION	2
14	MINING AND QUARRYING OF NONMETALLIC MINERALS, EXCEPT FUELS	334
16	HEAVY CONSTRUCTION, EXCEPT BUILDING CONSTRUCTION - CONTRACTORS	1
17	CONSTRUCTION - SPECIAL TRADE CONTRACTORS	4
20	FOOD AND KINDRED PRODUCTS	123
23	APPAREL, FINISHED PRODUCTS FROM FABRICS & SIMILAR MATERIALS	1
24	LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE	59
25	FURNITURE AND FIXTURES	14
26	PAPER AND ALLIED PRODUCTS	23
27	PRINTING, PUBLISHING AND ALLIED INDUSTRIES	48
27	* PRINTING, PUBLISHING AND ALLIED INDUSTRIES	1
28	CHEMICALS AND ALLIED PRODUCTS	134
29	PETROLEUM REFINERIES AND RELATED INDUSTRIES	115
29	* PETROLEUM REFINERIES AND RELATED INDUSTRIES	1
30	RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS	63
31	LEATHER AND LEATHER PRODUCTS	5
32	STONE, CLAY, GLASS, AND CONCRETE PRODUCTS	340
33	PRIMARY METAL INDUSTRIES	44
34	FABRICATED METAL PRODUCTS, EXCEPT MACHINERY & TRANSPORT EQUIPMENT	67
34	* FABRICATED METAL PRODUCTS, EXCEPT MACHINERY & TRANSPORT EQUIPMENT	1
35	INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	41
36	ELECTRONIC, ELECTRICAL EQUIPMENT AND COMPONENTS, EXCEPT COMPUTER EQUIPMENT	21
37	TRANSPORTATION EQUIPMENT	52
38	MEDICAL/ANALYTICAL/CONTROL INSTRUMENTS; PHOTO/MEDICAL/OPTICAL GOODS; WATCH/CLOCKS	3
39	MISCELLANEOUS MANUFACTURING INDUSTRIES	10
41	LOCAL, SUBURBAN TRANSIT & INTERSUBURBAN HIGHWAY PASSENGER TRANSPORT	1
42	MOTOR FREIGHT TRANSPORTATION	17
43	* UNITED STATES POSTAL SERVICE	1
44	WATER TRANSPORTATION	6
45	TRANSPORTATION BY AIR	4
45	* TRANSPORTATION BY AIR	3

46	PIPELINES, EXCEPT NATURAL GAS	16
47	TRANSPORTATION SERVICES	1
48	COMMUNICATIONS	6
49	ELECTRIC, GAS, AND SANITARY SERVICES	130
49	* ELECTRIC, GAS, AND SANITARY SERVICES	81
50	WHOLESALE TRADE - DURABLE GOODS	20
51	WHOLESALE TRADE - NONDURABLE GOODS	172
52	BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY & MOBILE HOME DEALERS	1
55	AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	1
59	MISCELLANEOUS RETAIL	1
62	SECURITY & COMMODITY BROKERS, DEALERS, EXCHANGES & SERVICES	1
65	REAL ESTATE	1
72	PERSONAL SERVICES	68
72	* PERSONAL SERVICES	2
73	BUSINESS SERVICES	9
75	AUTOMOTIVE REPAIR, SERVICES AND PARKING	8
75	* AUTOMOTIVE REPAIR, SERVICES AND PARKING	1
76	MISCELLANEOUS REPAIR SERVICES	5
79	AMUSTMENT AND RECREATION SERVICES	2
79	* AMUSTMENT AND RECREATION SERVICES	1
80	HEALTH SERVICES	34
80	* HEALTH SERVICES	16
82	EDUCATIONAL SERVICES	8
82	* EDUCATIONAL SERVICES	10
83	* SOCIAL SERVICES	1
87	ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT & RELATED SERVICES	9
87	* ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT & RELATED SERVICES	1
91	* EXECUTIVE, LEGISLATIVE & GENERAL GOVERNMENT, EXCEPT FINANCE	1
92	* JUSTICE, PUBLIC ORDER AND SAFETY	14
95	* ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	1
97	* NATIONAL SECURITY AND INTERNATIONAL AFFAIRS	7
Grand Total		2229

Note: With "*" Denotes Public Facilities and without "*" denotes Private Facilities

143 public entities resresents approximately 15% of total chargeable emissions

2086 private entities resresents approximately 85% of total chargeable emissions

IV. ASSUMPTIONS

1. An annualized aggregate cost of this rulemaking is used for the purposes of providing the aggregate cost for the life of the rule. The annualized aggregate cost is the agency estimate of the average costs that will be incurred in any future year, no matter how far distant. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be five (5) years although the duration of the rule is indefinite. If the life of the rule extends beyond 5 years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.
2. The public entity costs are air emission fee collection estimates for future years. The projected costs are based on the most recent actual data available to the department which is FY 2013 data.
3. Actual fee revenue is based on chargeable emissions reported on Emission Inventory Questionnaires submitted annually by entities required to have an operating permit, construction permit or permit by rule. The baseline FY 2013 fee revenue data represents chargeable emissions as of December 31, 2012.
4. Fees for public entities are based on \$48.00 per ton of applicable air pollutant per paragraph (3)(A)1. of 10 CSR 10-6.110 for calendar years 2015 (collected in FY 2016) and beyond. The fee applies to the first 4,000 tons of a single pollutant, up to no more than 12,000 tons of combined pollutants total. This fee represents an \$8.00

- increase from the emission fee of \$40.00 per ton of regulated air pollutant for calendar years 2015 and beyond.
5. Actual fee revenues collected in FY 2013 were used as basis for future year emission fee estimates. Future year cost estimates are based on FY 2013 fee revenues decreasing 6% for FY 2014, the FY 2014 fee revenues decreasing 8% for FY 2015, and FY 2015 decreasing 5% for FY 2016 due to anticipated process changes, facility retirements, added control equipment, etc. as a result of upcoming federal regulations being released. This establishes the projected FY 2016 chargeable emissions as 135,098 tons.
 6. The projected FY 2016 chargeable emissions are estimated to decrease 5% per year thereafter due to anticipated process changes, facility retirements, added control equipment, etc. as a result of upcoming federal regulations being released.
 7. This cost estimate is based on public entities representing 15% of the total chargeable emissions in a year. This percentage is based on calendar year 2012 data.
 8. The fees for emissions produced during the previous calendar year are due June 1 each year per paragraph (3)(A)6. of 10 CSR 10-6.110. For example, calendar year 2015 emission fees are received by the Missouri Department of Natural Resources between January 1, 2016 and June 1, 2016.
 9. The amount of emission fees paid by public entities may vary depending on their current operating conditions since their resultant fees are directly related to the amount of their emissions.
 10. The aggregate gain in public entity fee revenue for the Missouri Department of Natural Resources' Air Pollution Control Program is directly related to the difference in emission fees. The net gain in revenue is equivalent to the amount of gain realized by both public and private entities paying emission fees.
 11. This fiscal note only includes estimated costs for changes made as a result of this proposed amendment.
 12. The yearly decrease in emissions estimates provided by the Air Pollution Control Program's Emissions Inventory Questionnaire Unit is based on recent rule changes, economic factors, and information from the program's permit, planning, and enforcement staff as well as information submitted by electric generation facilities and made available by the U.S. Energy Information Administration. These estimates only include information on facilities with documented changes that affect emissions.
 13. Note that numbers in charts are shown as whole numbers but actual numbers may include decimal places which may appear to be a variance in totals.

FISCAL NOTE
PRIVATE COST

- I. Department Title:** 10 – Department of Natural Resources
Division Title: 10 – Air Conservation Commission
Chapter Title: 6 – Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

Rule Number and Name:	10 CSR 10 – 6.110 Reporting Emission Data, Emission Fees, and Process Information
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 types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
2,229 Total Facilities of which 2,086 are Private Entities (See list of affected entities below)	Listed below	\$ 967,019 Annualized Aggregate \$ 4,835,095 For Projected 5-Year Life

III. WORKSHEET

Actual FY 2013 Fee Revenue Collected = \$7,651,695

Projected FY 2014 Fee Revenue Collected = \$7,192,593 (Assuming 6% decrease in fee revenue from FY 2013 revenue)

Projected FY 2015 Fee Revenue Collected = \$6,617,186 (Assuming 8% decrease in fee revenue from FY 2014 revenue)

Projected FY 2016 Fee Revenue Collected = \$6,286,326 (Assuming 5% decrease in fee revenue from FY 2015 revenue)

FY 2016 Projected Revenue Collection From Emission Fees = \$6,286,326

Current Emission Fee = \$40.00

FY 2016 Projected Chargeable Tons of Emissions/Year = $\frac{\text{FY 2016 Projected Revenue Collection From Emission Fees}}{\text{Current Emission Fee}}$

FY 2016 Projected Chargeable Tons of Emissions/Year = 157,158

Proposed Emission Fee* = \$48.00

Fiscal Year	Percent yearly decrease in Collection from Fees	Tons of Chargeable Emissions	Estimated Emission Fee Collection (with fee change)	Estimated Emission Fee Collection (without fee change)	Cost to Affected Entities due to Fee Increase
2016 (1/1 - 6/30/16)	-	157,158	\$7,543,591	\$6,286,326	\$1,257,265
2017	5%	149,300	\$7,166,412	\$5,972,010	\$1,194,402
2018	5%	141,835	\$6,808,091	\$5,673,409	\$1,134,682
2019	5%	134,743	\$6,467,687	\$5,389,739	\$1,077,948
2020	5%	128,006	\$6,144,302	\$5,120,252	\$1,024,050
2021 (7/1 - 12/31/20)	5%	121,606	\$0*	\$0*	\$0*
Cost projected over 5 years			\$34,130,084	\$28,441,737	\$5,688,347

* Although chargeable emissions are accrued, emission fees are collected in the later part of FY 2021.

- 157,158 = Projected chargeable tons per year for FY 2016 fee collection
- 5% = Projected decrease in chargeable tons of emissions per year beyond FY 2016
- \$48.00 = Proposed new emissions fee
- \$40.00 = Existing emissions fee
- 85% = Estimated percentage of total chargeable emissions attributable to private entities

	Projected Total Emission Fees Collected (with proposed new fee) - Public & Private						
	FY 2016 (1/1-6/30/16)	FY 2017*	FY 2018	FY 2019	FY 2020	FY 2021 (7/1-12/31/20)	5-Year Cost
Projected chargeable tons per year for Fee Collection	157,158	149,300	141,835	134,743	128,006	121,606	832,649
Emission Fees	\$7,543,591	\$7,166,412	\$6,808,091	\$6,467,687	\$6,144,302	\$0***	\$34,130,084

	Projected Total Emission Fees Collected (with existing fee) - Public & Private						
	FY 2016 (1/1-6/30/16)	FY 2017*	FY 2018	FY 2019	FY 2020	FY 2021 (7/1-12/31/20)	5-Year Cost
Projected chargeable tons per year for Fee Collection	157,158	149,300	141,835	134,743	128,006	121,606	832,649
Emission Fees	\$6,286,326	\$5,972,010	\$5,673,409	\$5,389,739	\$5,120,252	\$0***	\$28,441,737

New/Existing Emission Fees Cost Difference For Public & Private	\$1,257,265	\$1,194,402	\$1,134,682	\$1,077,948	\$1,024,050	\$0***
New/Existing Emission Fees Cost Difference For Private Only (85% of Public & Private)	\$1,068,675	\$1,015,242	\$964,480	\$916,256	\$870,443	\$0***

Projected 5-Year Aggregate Increase in Emission Fee Amount Collected	\$5,688,347
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Estimated Annualized Aggregate For Public and Private Entity Emission Fee Cost For This Amendment**	\$1,137,669
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Estimated Annualized Aggregate For Private Entity Cost Only For This Amendment (85% of Public & Private)	\$967,019
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- * The first full fiscal year for this rulemaking is FY 2017.
- ** Difference in estimate annualized aggregate costs when raising \$40.00 fee to \$48.00.
- *** Although chargeable emissions are accrued, emission fees are collected in the later part of FY 2021.

List of Affected Entities:

SIC Code	SIC Description	# of 2012 Affected Entities (Public and Private)
01	AGRICULTURAL PRODUCTION - CROPS	1
02	AGRICULTURAL PRODUCTION - LIVESTOCK AND ANIMAL SPECIALTIES	3
07	AGRICULTURAL SERVICES	40
10	METAL MINING	11
12	COAL MINING	6
13	OIL AND GAS EXTRACTION	2
14	MINING AND QUARRYING OF NONMETALLIC MINERALS, EXCEPT FUELS	334
16	HEAVY CONSTRUCTION, EXCEPT BUILDING CONSTRUCTION - CONTRACTORS	1
17	CONSTRUCTION - SPECIAL TRADE CONTRACTORS	4
20	FOOD AND KINDRED PRODUCTS	123
23	APPAREL, FINISHED PRODUCTS FROM FABRICS & SIMILAR MATERIALS	1
24	LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE	59
25	FURNITURE AND FIXTURES	14
26	PAPER AND ALLIED PRODUCTS	23
27	PRINTING, PUBLISHING AND ALLIED INDUSTRIES	48
27	* PRINTING, PUBLISHING AND ALLIED INDUSTRIES	1
28	CHEMICALS AND ALLIED PRODUCTS	134
29	PETROLEUM REFINERIES AND RELATED INDUSTRIES	115
29	* PETROLEUM REFINERIES AND RELATED INDUSTRIES	1
30	RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS	63
31	LEATHER AND LEATHER PRODUCTS	5
32	STONE, CLAY, GLASS, AND CONCRETE PRODUCTS	340
33	PRIMARY METAL INDUSTRIES	44
34	FABRICATED METAL PRODUCTS, EXCEPT MACHINERY & TRANSPORT EQUIPMENT	67
34	* FABRICATED METAL PRODUCTS, EXCEPT MACHINERY & TRANSPORT EQUIPMENT	1
35	INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	41
36	ELECTRONIC, ELECTRICAL EQUIPMENT AND COMPONENTS, EXCEPT COMPUTER EQUIPMENT	21
37	TRANSPORTATION EQUIPMENT	52
38	MEDICAL/ANALYTICAL/CONTROL INSTRUMENTS; PHOTO/MEDICAL/OPTICAL GOODS; WATCH/CLOCKS	3
39	MISCELLANEOUS MANUFACTURING INDUSTRIES	10
41	LOCAL, SUBURBAN TRANSIT & INTERSUBURBAN HIGHWAY PASSENGER TRANSPORT	1
42	MOTOR FREIGHT TRANSPORTATION	17
43	* UNITED STATES POSTAL SERVICE	1

44	WATER TRANSPORTATION	6
45	TRANSPORTATION BY AIR	4
45	* TRANSPORTATION BY AIR	3
46	PIPELINES, EXCEPT NATURAL GAS	16
47	TRANSPORTATION SERVICES	1
48	COMMUNICATIONS	6
49	ELECTRIC, GAS, AND SANITARY SERVICES	130
49	* ELECTRIC, GAS, AND SANITARY SERVICES	81
50	WHOLESALE TRADE - DURABLE GOODS	20
51	WHOLESALE TRADE - NONDURABLE GOODS	172
52	BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY & MOBILE HOME DEALERS	1
55	AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	1
59	MISCELLANEOUS RETAIL	1
62	SECURITY & COMMODITY BROKERS, DEALERS, EXCHANGES & SERVICES	1
65	REAL ESTATE	1
72	PERSONAL SERVICES	68
72	* PERSONAL SERVICES	2
73	BUSINESS SERVICES	9
75	AUTOMOTIVE REPAIR, SERVICES AND PARKING	8
75	* AUTOMOTIVE REPAIR, SERVICES AND PARKING	1
76	MISCELLANEOUS REPAIR SERVICES	5
79	AMUSTMENT AND RECREATION SERVICES	2
79	* AMUSTMENT AND RECREATION SERVICES	1
80	HEALTH SERVICES	34
80	* HEALTH SERVICES	16
82	EDUCATIONAL SERVICES	8
82	* EDUCATIONAL SERVICES	10
83	* SOCIAL SERVICES	1
87	ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT & RELATED SERVICES	9
87	* ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT & RELATED SERVICES	1
91	* EXECUTIVE, LEGISLATIVE & GENERAL GOVERNMENT, EXCEPT FINANCE	1
92	* JUSTICE, PUBLIC ORDER AND SAFETY	14
95	* ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	1
97	* NATIONAL SECURITY AND INTERNATIONAL AFFAIRS	7
Grand Total		2229

Note: With "*" Denotes Public Facilities and without "*" denotes Private Facilities

143 public entities represents approximately 15% of total chargeable emissions

2086 private entities represents approximately 85% of total chargeable emissions

IV. ASSUMPTIONS

1. An annualized aggregate cost of this rulemaking is used for the purposes of providing the aggregate cost for the life of the rule. The annualized aggregate cost is the agency estimate of the average costs that will be incurred in any future year, no matter how far distant. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be five (5) years although the duration of the rule is indefinite. If the life of the rule extends beyond 5 years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.
2. The private entity costs are air emission fee collection estimates for future years. The projected costs are based on the most recent actual data available to the department which is FY 2013 data.
3. Actual fee revenue is based on chargeable emissions reported on Emission Inventory Questionnaires submitted annually by entities required to have an operating permit, construction permit or permit by rule. The baseline FY 2013 fee revenue data represents chargeable emissions as of December 31, 2012.
4. Fees for private entities are based on \$48.00 per ton of applicable air pollutant per paragraph (3)(A)1. of 10 CSR 10-6.110 for calendar years 2015 (collected in FY

2016) and beyond. The fee applies to the first 4,000 tons of a single pollutant, up to no more than 12,000 tons of combined pollutants total. This fee represents an \$8.00 increase from the emission fee of \$40.00 per ton of regulated air pollutant for calendars year 2015 and beyond.

5. Actual fee revenues collected in FY 2013 were used as basis for future year emission fee estimates. Future year cost estimates are based on FY 2013 fee revenues decreasing 6% for FY 2014, the FY 2014 fee revenues decreasing 8% for FY 2015, and FY 2015 decreasing 5% for FY 2016 due to anticipated process changes, facility retirements, added control equipment, etc. as a result of upcoming federal regulations being released. This establishes the projected FY 2016 chargeable emissions as 135,098 tons.
6. The projected FY 2016 chargeable emissions are estimated to decrease 5% per year thereafter due to anticipated process changes, facility retirements, added control equipment, etc. as a result of upcoming federal regulations being released.
7. This cost estimate is based on private entities representing 85% of the total chargeable emissions in a year. This percentage is based on calendar year 2012 data.
8. The fees for emissions produced during the previous calendar year are due June 1 each year per paragraph (3)(A)6. of 10 CSR 10-6.110. For example, calendar year 2015 emission fees are received by the Missouri Department of Natural Resources between January 1, 2016 and June 1, 2016.
9. The amount of emission fees paid by private entities may vary depending on their current operating conditions since their resultant fees are directly related to the amount of their emissions.
10. The aggregate gain in private entity fee revenue for the Missouri Department of Natural Resources' Air Pollution Control Program is directly related to the difference in emission fees. The net gain in revenue is equivalent to the amount of gain realized by both public and private entities paying emission fees.
11. This fiscal note only includes estimated costs for changes made as a result of this proposed amendment.
12. The yearly decrease in emissions estimates provided by the Air Pollution Control Program's Emissions Inventory Questionnaire Unit is based on recent rule changes, economic factors, and information from the program's permit, planning, and enforcement staff as well as information submitted by electric generation facilities and made available by the U.S. Energy Information Administration. These estimates only include information on facilities with documented changes that affect emissions.
13. Note that numbers in charts are shown as whole numbers but actual numbers may include decimal places which may appear to be a variance in totals.

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

PROPOSED AMENDMENT

13 CSR 70-3.030 Sanctions for False or Fraudulent Claims for MO HealthNet Services. The division is amending section (1).

PURPOSE: This amendment updates the incorporated by reference material date in section (1).

(1) Administration.

(A) The MO HealthNet program shall be administered by the Department of Social Services, MO HealthNet Division. The services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the division and shall be included in the MO HealthNet provider manuals, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website dss.mo.gov/mhd, [October 15, 2013] **September 15, 2014**. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: sections 208.153 and 208.201, RSMo Supp. 2013. This rule was previously filed as 13 CSR 40-81.160. Original rule filed Sept. 22, 1979, effective Feb. 11, 1980. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 15, 2014.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the *Missouri Register*. If to be hand delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.160 Public/Private Long-Term Care Services and Supports Partnership Supplemental Payment to Nursing Facilities. The division is amending section (1) and adding section (2).

PURPOSE: This amendment allows supplement payments to public nursing facilities that have qualified IGT agreements with the Department of Social Services.

(1) Effective for dates of service on or after April 1, 2012, through **June 30, 2013**, supplemental payments will be made as set forth in subsections (1)(A)–(1)(D) in each following calendar quarter from the Long-Term Support **Upper Payment Limit** (UPL) Fund to qualifying private and public nursing facilities for services rendered dur-

ing the quarter on or after April 1, 2012 through **June 30, 2013**. Maximum payments to all qualifying private and public nursing facilities shall not exceed the upper payment limit defined in 42 CFR 447.272 in each state fiscal year.

(2) Effective for dates of service beginning **July 1, 2013**, Nursing Facility UPL Payments shall be made as set forth below in subsections (2)(A)–(2)(C). Maximum aggregate payments to all qualifying nursing facilities shall not exceed the upper payment limit defined in 42 CFR 447.272 in each state fiscal year.

(A) An annual UPL Payment shall be made at the end of each state fiscal year (SFY) to qualifying nursing facilities.

(B) Qualifying Criteria. Public nursing facilities that have executed an agreement with the department are eligible for a UPL Payment and shall be referred to as qualifying nursing facilities. In addition, to qualify for the UPL Payment, each nursing facility must be enrolled in the Medicaid program at the time the UPL payments are calculated and made.

(C) Reimbursement Methodology. The annual UPL Payment will be made to qualifying nursing facilities based on each facility's unreimbursed costs determined from the facility's second prior year Medicaid cost report, subject to the Medicare Upper Payment Limit.

AUTHORITY: section 208.201, RSMo Supp. 2013. Original rule filed Feb. 15, 2012, effective Aug. 30, 2012. Amended: Filed July 1, 2013, effective Jan. 30, 2014. Amended: Filed Aug. 15, 2014.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the *Missouri Register*. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—[Division of Medical Services]
MO HealthNet Division
Chapter 65—Rehabilitation Center Program**

PROPOSED AMENDMENT

13 CSR 70-65.010 Rehabilitation Center Program. The division is amending the purpose statement and sections (1)–(7) and changing the division name.

PURPOSE: This amendment updates the reference date in section (1), and the terminology in the purpose statement and in sections (1)–(7).

PURPOSE: This rule establishes the regulatory basis for the administration of the rehabilitation center program. This rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available through the [Medicaid] MO HealthNet program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care

and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Specific details of provider participation, criteria and methodology for provider reimbursement, [recipient] participant eligibility, and amount, duration, and scope of services covered are included in the rehabilitation center provider manual which is available at the website [www.]dss.mo.gov/[dms]mhd.

(1) Administration. The [Missouri Medicaid] MO HealthNet rehabilitation center program shall be administered by the Department of Social Services, [Division of Medical Services] MO HealthNet Division. The rehabilitation center services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the [Division of Medical Services] MO HealthNet Division and shall be included in the rehabilitation center provider manual and bulletins, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, [Division of Medical Services] MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at [www.]dss.mo.gov/[dms]mhd, [July 1, 2006] September 15, 2014. This rule does not incorporate any subsequent amendments or additions. Rehabilitation center services shall include only those that are clearly shown to be medically necessary as determined by the treating physician. The division reserves the right to affect changes in services, limitations, and fees with notification to rehabilitation center providers by amending this rule.

(2) Persons Eligible. The [Missouri Medicaid] MO HealthNet Rehabilitation Program pays for the adaptive training of [Medicaid recipients] MO HealthNet participants who receive a prosthetic/orthotic device. In addition, rehabilitation centers may provide physical, occupational, and speech therapy to children under the age of twenty-one (21) when medically necessary as determined by the treating physician. The Omnibus Reconciliation Act of 1989 (OBRA-89) mandated that [Medicaid] MO HealthNet covered services be provided based on medical necessity as determined by the treating physician in a healthy children and youth screening. The [recipient] participant must be eligible on the date service is furnished. [Recipients] Participants may have specific limitations to rehabilitation center program services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a [recipient] participant based on his or her type of assistance as outlined in the rehabilitation center provider manual. The provider shall ascertain the patient's [Medicaid/MC+] MO HealthNet/MO HealthNet Managed Care status before any service is performed. The [recipient's] participant's eligibility shall be verified in accordance with methodology outlined in the rehabilitation center provider manual.

(3) Provider Participation.

(A) To be eligible for participation in the [Missouri Medicaid] MO HealthNet rehabilitation center program, a provider must meet the criteria specified for his or her profession as outlined in the rehabilitation center provider manual and be an enrolled [Medicaid] MO HealthNet provider.

(B) The enrolled [Medicaid] MO HealthNet provider shall agree to[.:]—

1. Keep any records necessary to disclose the extent of services the provider furnishes to [recipients] participants; and
2. On request furnish to the [Medicaid agency] Department of Social Services or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan.

(4) Covered Services. The [recipient] participant shall have a referral for speech therapy services from a [Medicaid] MO HealthNet

enrolled primary care provider. The [recipient] participant shall have a prescription for occupational and physical therapy services from a [Medicaid] MO HealthNet enrolled primary care provider.

(5) Reimbursement. Payment will be made in accordance with the fee per unit of service as defined and determined by the [Division of Medical Services] MO HealthNet Division. Providers must bill their usual and customary charge for rehabilitation center services. Reimbursement will not exceed the lesser of the maximum allowed amount determined by the [Division of Medical Services] MO HealthNet Division or the provider's billed charges. Rehabilitation services are only payable to an enrolled, eligible, participating provider.

(6) Documentation. For physical, occupational, and speech therapy services, the [Division of Medical Services] MO HealthNet Division requires that the following documentation be included in the [recipient's] participant's record:

- (A) [Recipient's] Participant's complete name;
- (C) Actual treatment provided for the [recipient] participant (more than "treatment given") on the specific date of service;
- (G) The official Individual Education Plan (IEP) or Individual Family Services Plan (IFSP) which must be in the record when billing therapy with a [WQ] TM or TR modifier.

(7) Records Retention. These records must be retained for five (5) years from the date of service. Fiscal and medical records coincide with and fully document services billed to the [Medicaid agency] MO HealthNet Division. Providers must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, or retain adequate documentation for services billed to the [Medicaid] MO HealthNet program, as specified above, is a violation of this regulation.

AUTHORITY: sections 208.153 and 208.201, RSMo [2000] Supp. 2013. Original rule filed Nov. 1, 2002, effective April 30, 2003. Amended: Filed June 1, 2006, effective Dec. 30, 2006. Amended: Filed Aug. 15, 2014.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—MO HealthNet Division Chapter 100—Missouri Rx Plan

PROPOSED RULE

13 CSR 70-100.010 Missouri Rx Plan Benefits and Limitations

PURPOSE: This rule establishes the benefits and limitations for administering the Missouri Rx Plan, Missouri's State Pharmacy

Assistance Program, to provide prescription drug assistance to Missourian's sixty-five (65) years of age and older or disabled and receiving Social Security benefits in need of coordinating benefits with Medicare's Prescription Drug (Part D) Program.

(1) Administration. The Missouri Rx Plan shall be administered by the Department of Social Services, MO HealthNet Division.

(2) Definitions.

(A) Applicant—A person who applies to participate in the Missouri Rx Plan, either personally or through an authorized representative.

(B) Application—The form completed and submitted to the Missouri Rx Plan by an applicant which is used to determine the applicant's eligibility to participate in the Missouri Rx Plan.

(C) Authorized Representative—If an applicant is incapable of submitting an application on his or her own behalf, the Missouri Rx Plan shall accept one (1) of the following persons designated by the applicant:

1. A close relative by blood or marriage, such as a parent, spouse, son, daughter, brother, or sister;

2. A representative payee designated by the Social Security Administration; or

3. A representative of a public/private social service agency, which the applicant is a client, who has been designate by the agency to so act.

(D) Household Income—The combined gross income of all the related or non-related members of a household.

(E) Liquid Assets—Assets that can be converted to cash in a short time with little or no loss in value including such assets as checking and savings accounts, certificates of deposit, stocks, bonds, savings bonds, mutual funds, Individual Retirement Account or similar investment, cash, and value of real estate other than the primary residence.

(F) Member—A person who meets the eligibility requirements of the Missouri Rx Plan and has been enrolled in the Missouri Rx Plan.

(G) Missouri Rx Plan—The state pharmacy assistance program administered by the Department of Social Services, MO HealthNet Division.

(H) Out-of-pocket costs—Means the deductible and co-pays required for prescription drug. The Missouri Rx Plan does not pay for the Medicare Part D monthly premium.

(3) Eligibility. To qualify for the Missouri Rx Plan the individual must be—

(A) A U.S. citizen or a lawfully admitted alien;

(B) A Missouri resident, a person who has or intends to have a fixed place of residence in Missouri, with the present intent of maintaining a permanent home in Missouri for the indefinite future; and

(C) Sixty-five (65) years of age or older; or

(D) Be an individual between the ages of nineteen (19) and sixty-four (64) who is disabled and receiving a Social Security Benefit; and

(E) Enrolled in a Medicare Part D prescription drug plan; and

(F) Is not a member of a retirement plan that is receiving a benefit under the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173; and

(G) Has an annual household income not to exceed one hundred eighty-five percent (185%) of the federal poverty level (FPL), subject to appropriations. The Federal Poverty Level is published annually. The revised income eligibility standard will be used to determine eligibility for the month following the month in which the standard is issued; and

(H) An individual who is an inmate of a public institution is not eligible for Missouri Rx Plan.

(4) Application process. The application for the Missouri Rx Plan must be made in writing on the prescribed form. The request for

assistance can be made by the applicant, guardian, or other individual acting for the applicant with the applicant's knowledge and consent. The application filing date is the date the application is received by the MO HealthNet Division. The MO HealthNet will consider an application without regard to race, color, age, sex, disability, religion, national origin, or political belief as per Title VI of the Civil Rights Act of 1964. The application shall require the applicant to attest to the following information:

(A) Date of birth;

(B) Social Security number;

(C) Medicare claim number;

(D) Self-certification of Missouri residency;

(E) Mailing address;

(F) Contact information;

(G) Self-certification of household income;

(H) Self-certification of liquid assets;

(I) Certification and attestation statement;

(J) Signature of applicant or authorized representative;

(K) Name of Medicare Part D Prescription Drug Plan; and

(L) Additional information as may be necessary to comply with state or federal law.

(5) The applicant shall submit the following documentation with the application:

(A) Copy of Medicare Health Insurance Card; and

(B) Copy of Social Security Card.

(6) The MO HealthNet Division shall have the right to a review and audit of information on the application form, with a reasonable prior notice to the applicant, if selected for review.

(A) The Missouri Rx Plan may require documentation to verify Missouri residency. Documentation of Missouri residency may include one (1) of the following:

1. Valid driver's license;

2. Valid Missouri state identification card;

3. Voter registration card; or

4. Utility bill with address.

(B) The Missouri Rx Plan may require documentation to verify income. Documentation of income may include one (1) of the following:

1. Social Security benefits—as paid after deduction of Medicare premium;

2. Pension—as paid;

3. Veterans Administration Pension—as paid;

4. U.S. Railroad Retirement Benefits—as paid;

5. Wages—net amount after deductions for taxes and Federal Insurance Contributions Act (FICA);

6. Interest/Dividends—gross amount;

7. Capital Gains—gross amount from capital gains on stocks, mutual funds, and bonds;

8. Credit Life or Credit Disability Insurance Payments—as paid;

9. Alimony—as paid;

10. Rental income from an entire dwelling—gross rent paid minus standard deduction of twenty percent (20%) for expenses;

11. Roomer/Boarder Income—gross room/board paid minus standard deduction of ten percent (10%) for expenses;

12. Self Employment—countable income as reported to Internal Revenue Service (IRS);

13. Unemployment Compensation—as paid; or

14. Additional information, as may be necessary to verify income.

(7) Program eligibility will be denied or terminated if the applicant refuses to cooperate with the request for verification information. If all verification information requested is not received by the due date, an eligibility determination cannot be made. This will result in denial of the application. Verification that is provided or received may

reveal a new eligibility issue not previously realized that requires additional verification. If the additional verification requested is not received by the due date given, the application will be denied or the individual terminated from the Missouri Rx Plan.

(8) The applicant shall assist the Missouri Rx Plan in securing corroboration of the applicant's information on the application form and required documentation when necessary. Program eligibility will be denied or terminated if the applicant refused to cooperate with the request.

(9) Individuals who are enrolled in Medicare and Medicaid (dual eligibles) are deemed to have enrolled in the Missouri Rx Plan.

(10) Effective Date of Coverage. Coverage begins on the date the applicant is determined eligible for the Missouri Rx Plan. There is no retroactive coverage. Eligible individuals will receive an identification card from the Missouri Rx Plan.

(11) Benefit Limits.

(A) The Missouri Rx Plan shall pay fifty percent (50%) of the member's out-of-pocket costs for prescription drugs covered by the Medicare Prescription Drug Program and by the members Medicare Part D Plan formulary.

(B) The Missouri Rx Plan shall have the authority to change the benefit limits at any time to achieve program cost control.

(12) Member's Responsibilities.

(A) The member shall notify the Missouri Rx Plan within ten (10) days of any change in circumstances when the member no longer meets the eligibility requirements set forth in sections 208.780 to 208.798, RSMo and regulations.

(B) The authorized representative or other responsible person shall notify the Missouri Rx Plan of the death of a member within sixty (60) days of the member's death.

(13) Annual review. Missouri Rx Plan members do not need to reapply every year. Once a member is enrolled, the member does not need to reapply. Missouri Rx Plan members receive a notice to update their information from the Missouri Rx Plan. Failure to return the requested information will result in termination of eligibility. A redetermination is completed when all eligibility factors are examined and a decision regarding continued eligibility is reached.

(14) Termination from the Program.

(A) A member shall be terminated from the Missouri Rx Plan if he or she no longer meets the eligibility requirements under sections 208.780 to 208.798, RSMo or this regulation.

(15) Confidentiality. The Missouri Rx Plan will provide safeguards that restrict the use or disclosure of information about applicants and members to purposes directly connected with the administration of the Missouri Rx Plan. Purposes directly related to administration of the Missouri Rx Plan include establishing eligibility, providing services for members, auditing the Missouri Rx Plan, and conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the program.

AUTHORITY: sections 208.201, 208.780 to 208.798, RSMo Supp. 2013. Original rule filed August 15, 2014.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions twenty-eight (28) million six (6) thousand dollars per year with a five percent (5%) increase each year with adjustments for inflation for the life of the rule.

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 amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 100 – Missouri Rx Plan

Rule Number and Name:	13 CSR 70-100.10
Type of Rulemaking:	Proposed Rule Missouri Rx Plan Benefits and Limitations

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	\$28.6 million

III. WORKSHEET

IV. ASSUMPTIONS

General Revenue	\$6.4
Healthy Families Trust Fund	<u>\$4.8</u>
Total Revenue	\$18.8

Expenditures:

Administration/Contracts	\$1.2
Current Members Cost (Dual & Non-Duals)	\$23.5
New Non-Duals Members Cost	<u>\$3.9</u>
Total Expenditures	\$28.6

Ending Balance (\$11.4)

Assumptions:

Current Membership 230,579

- 174,807 Dual Eligibles
- 55,772 Non-Dual Eligibles

Rebates – Assume the FY13 level will continue

General Revenue – Assume the amount appropriated in FY14 will continue

Healthy Families Trust Fund – Assume the amount appropriated in FY14 will continue

Administration/Contracts – Assume the amount incurred in FY13 will continue

Current Members Costs – Assumed FY13 Cost of \$20.3 m and assumed a 5% increase each year

New Non-Duals Members Cost – Used a regression from July 11 – June 13 to predict the new members

Multiplied the new members by the FY13 PMPM of \$23.03 and assumed a 5% increase in cost each year

Assumed no increase in full duals or partial dual eligibles