MEETING NOTICE
Missouri Board of Pharmacy
CONFERENCE CALL

Missouri Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, MO 65109

November 14, 2018
3:00 p.m.

Notice is hereby given that the Missouri Board of Pharmacy will be meeting at 3:00 p.m. on November 14, 2018 via conference call. A tentative agenda is attached. If any member of the public wishes to attend the meeting, s/he should be present at the Missouri Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri at 3:00 p.m. on November 14, 2018.

Except to the extent disclosure is otherwise required by law, the Missouri Board of Pharmacy is authorized to close meetings, records and votes pursuant to Section 610.021(1), (13) and (14) and section 324.001.8, RSMo. If the meeting is closed, the appropriate section will be announced to the public with the motion and vote recorded in open session minutes.

Notification of special needs as addressed by the Americans with Disabilities Act should be forwarded to the Missouri Board of Pharmacy, P O Box 625, 3605 Missouri Blvd., Jefferson City, Missouri 65102, or by calling (573) 751-0091 to ensure available accommodations. The text telephone for the hearing impaired is (800) 735-2966.
MEETING NOTICE
Missouri Board of Pharmacy
CONFERENCE CALL

Missouri Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, MO 65109

November 14, 2018
3:00 p.m.

OPEN SESSION AGENDA

1. Call to Order: Christian Tadrus, PharmD, President

2. Roll Call

3. Executive Director Administrative Updates

4. FDA Compounding Memorandum of Understanding Response

5. Board Comments on BNDD Proposed Rules 19 CSR 30-1.023, 19 CSR 30-1.064 and 19 CSR 30-1.078

6. Rx Cares for Missouri

7. Future Meeting Dates/Times

8. The Board may go into closed session at any point during the meeting and all votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting will be closed under Section 610.021(1), (5), (7), and (14) and under Section 324.001.8, and .9 RSMo. The Board will return to open session at the conclusion of discussion on closed session items.

6. Adjournment
TO: Board Members  
FROM: Kimberly Grinston, Executive Director  
RE: FDA Compounding MOU  
DATE: November 12, 2018

Please see the attached Board response to the FDA Memorandum of Understanding. After further review, I believe the MOU does not raise as many concerns as originally thought:

1. Several groups/associations raised concerns regarding the 5% limit if the state doesn’t sign the MOU. Concerns were also raised with including prescription dispensing in the 5% limit. However, the 5% limit and the dispensing language are included in 21 USC § 503A(b)(3) and can’t be removed without amending the statute.

2. Section III.b. of the MOU asks the Board to collect and report data regarding pharmacies shipping inordinate amounts of compounded medication interstate via a prescription order. As you’ll see, I raised concerns that Missouri pharmacies are not currently required to track this data. However, the language is limited to medication dispensed by “prescription order” which would limit the scope of reporting.

Board comments are due on or before December 10, 2018. Please let me know if you have any questions.
**MISSOURI BOARD OF PHARMACY RESPONSE:**

<table>
<thead>
<tr>
<th>Section</th>
<th>Details</th>
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<tr>
<td>1. Section III.b.2.</td>
<td>States would be required to annually collect pharmacy data regarding the number of compounded drug products distributed both intra- and inter-state via a prescription order. Missouri pharmacies are not currently required to track this data requiring a rule change. Missouri recommends granting additional time to allow the state to promulgate rules and comply with this requirement.</td>
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<td>2. Section III.b.3.</td>
<td>The Missouri Board of Registration for the Healing Arts (BOHA) regulates physicians in Missouri and does not have statutory authority to collect, request or review the requested physician data absent a specific complaint. As a result, Missouri law would need to be amended to implement the physician portions of this section. Missouri recommends limiting the current MOU to the Missouri Board of Pharmacy/pharmacy practice and adopting a separate MOU applicable to physicians and the state physician regulatory board.</td>
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<td>3. Section III.b.4.</td>
<td>As previously indicated, neither the Missouri Board of Pharmacy nor BOHA have statutory authority to collect, request or inspect the identified physician data. Additionally, Missouri pharmacies are not currently required to separately track or identify prescriptions dispensed interstate. Missouri recommends limiting the MOU to pharmacy practice and adopting a separate MOU applicable to physicians and the state physician regulatory Board. Additional time may also be required to amend the Board’s rules to comply with pharmacy data requirements.</td>
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<td>4. Section III.c.1.b.</td>
<td>Missouri recommends limiting the MOU to pharmacies due to the previously mentioned statutory limitations on collecting/requesting physician data.</td>
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<td>5. Section IV:</td>
<td>The MOU would require the state to “affirm that it now possesses and will maintain, at the direction of the State legislature, the legal authority and the resources necessary to effectively carry out all aspects of this MOU.” The terms “effectively” and “necessary” are ambiguous and undefined. Further, additional factors may affect available resources that are beyond the control of the Board or state legislature (e.g., funding). This is particularly the case with agencies like the Missouri Board of Pharmacy that are funded solely by licensee fees. The Board understands the intent of the proposed section but recommends deleting the referenced language.</td>
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<td>6. Section VI.</td>
<td>This subsection includes a 30-day MOU notice of termination requirement. However, states may need additional time to remedy any purported breach or to address supply issues in the event of termination. The Board recommends incorporating a minimum 60-day notification requirement prior to FDA termination of the MOU.</td>
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I. PURPOSE

This Memorandum of Understanding (MOU) establishes an agreement between the State of [insert State] and the U.S. Food and Drug Administration (FDA) regarding the distribution of inordinate amounts of compounded human drug products interstate and the appropriate investigation by the State of [insert State] of complaints relating to human drug products compounded in such State and distributed outside such State. This is the MOU provided for by section 503A(b)(3)(B)(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 353a), and does not apply to veterinary drug products, biological products subject to licensure under section 351 of the Public Health Service Act (42 U.S.C. 262), and drugs that are compounded by outsourcing facilities.

II. BACKGROUND

a. Section 503A of the FD&C Act describes the conditions that must be satisfied for drug products compounded by a licensed pharmacist or licensed physician to be exempt from three sections of the FD&C Act requiring:


   2. Labeling with adequate directions for use (section 502(f)(1) (21 U.S.C. 352(f)(1)); and

   3. FDA approval prior to marketing (section 505 (21 U.S.C. 355)).

b. To qualify for these exemptions, among other things, a compounded drug product must meet the conditions in section 503A(b)(3)(B) of the FD&C Act, under which the drug product is compounded in a State that:

   1. Has entered into an MOU with FDA that addresses the distribution of inordinate amounts\(^1\) of compounded drug products interstate and

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\(^1\)The definition of *inordinate amounts* in this MOU is separate and distinct from and should not be used in relation to the term *inordinate amounts* as it is used in section 503A(b)(1)(D) of the FD&C Act (pertaining to compounding a drug product that is essentially a copy of a commercially available drug product). The interpretation of this term in each instance necessarily is based on the particular context of the distinct provisions within 503A in which the term appears.
provides for appropriate investigation by a State agency of complaints relating to compounded drug products distributed outside such State (section 503A(b)(3)(B)(i)); or

2. Has not entered into an MOU with FDA and the licensed pharmacist, licensed pharmacy, or licensed physician distributes (or causes to be distributed) compounded drug products out of the State in which they are compounded in quantities that do not exceed 5 percent of the total prescription orders dispensed or distributed by such pharmacy or physician (section 503A(b)(3)(B)(ii)).

c. Section 503A(b)(3) of the FD&C Act directs FDA to develop a standard MOU for use by the States in complying with section 503A(b)(3)(B)(i). The content of this MOU conforms to the standard MOU developed by FDA for this purpose.

III. SUBSTANCE OF AGREEMENT

a. Investigation of Complaints Relating to Compounded Drug Products Distributed Outside the State

1. Appropriate agencies of the State of [insert State] will investigate complaints received relating to drug products compounded by a pharmacist and distributed outside the State by a pharmacy. Primary responsibility for investigating complaints involving drug products compounded by a pharmacist will generally lie with the [insert State Board of Pharmacy or other appropriate State agency].

2. Complaints relating to compounded drug products distributed outside the State that will be investigated include reports received by the State concerning adverse drug experiences or product quality issues associated with drugs compounded by a pharmacist. See Appendix A for definitions of adverse drug experiences and product quality issues.

3. Any investigations performed by the State of [insert State] under this MOU will include, but are not limited to, taking steps to assess (1) whether there is a public health risk associated with the compounded drug product; and (2) whether any public health risk associated with the product is adequately contained.

4. Based on findings from an investigation of a complaint about drug products compounded by a pharmacist and distributed outside the State, if the complaint is found to be valid, the State of [insert State], in accordance with and as permitted by State law, will take the action that the State considers to be appropriate and warranted to ensure that the relevant compounding pharmacy investigates the root cause of the problem that is the subject of the complaint and undertakes sufficient
corrective action to address any identified public health risk relating to the complaint, including the risk that future similar complaints may occur.

5. The State of [insert State] will notify FDA by sending an email to StateMOU@fda.hhs.gov with the information described in section III.c.1.a of this MOU as soon as possible, but no later than 3 business days after receiving any complaint relating to a drug product compounded by a pharmacist and distributed outside the State involving a serious adverse drug experience or serious product quality issue. After this notification, the State will share with FDA the results of the investigation that it conducted. See Appendix A for definitions of serious adverse drug experience and serious product quality issue.

6. If the State of [insert State] receives a complaint involving an adverse experience or product quality issue relating to a drug compounded by a physician and distributed outside the State, the State will notify the appropriate regulator of physician compounding within the State. If the complaint involves a serious adverse drug experience or serious product quality issue, the State will also notify FDA by sending an email to StateMOU@fda.hhs.gov with the information in section III.c.1.a of this MOU as soon as possible, but no later than 3 business days, after receiving the complaint.

7. The State of [insert State] will maintain records of the complaint, the investigation of the complaint, and any response to or action taken as a result of the complaint, beginning when the State receives notice of the complaint. The State will maintain these records for at least 3 years. The 3-year period begins on the date of final action on a complaint, or the date of a decision that the complaint requires no action.

b. Distribution of Inordinate Amounts of Compounded Drug Products Interstate

1. For purposes of this MOU, a pharmacy or physician has distributed an inordinate amount of compounded drug products interstate if the number of prescription orders for compounded drug products distributed interstate during any calendar month is greater than 50 percent of the number of prescription orders for compounded drug products distributed or dispensed both intrastate and interstate by such pharmacy or physician during that month.

2. On an annual basis (at minimum), the State of [insert State] will identify, using surveys, reviews of records during inspections, or other mechanisms available to the State, compounding pharmacies that distribute inordinate amounts of compounded drug products interstate by collecting information regarding the total number of prescription orders for compounded drug products distributed or dispensed

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intrastate and the total number of prescription orders for compounded
drug products distributed interstate.

3. If the State of [insert State] becomes aware of a physician who is
distributing compounded drug products interstate, the State will
coordinate with the appropriate regulator of physician compounding
within the State to determine, using surveys, reviews of records during
inspections, or other mechanisms available to the State, whether the
physician distributes inordinate amounts of compounded drug products
interstate by collecting information regarding the total number of
prescription orders for compounded drug products distributed or
dispensed intrastate and the total number of prescription orders for
compounded drug products distributed interstate.

4. For pharmacies or physicians that have been identified as distributing
inordinate amounts of compounded drug products interstate, the State
also will collect information regarding the total number of prescription
orders for sterile compounded drugs distributed outside the State; the
number of States in which the compounding pharmacy or physician is
licensed or number of States into which the compounding pharmacy or
physician distributes compounded drug products; and whether the
State inspected for and found during its most recent inspection that the
compounding pharmacy or physician distributed compounded drug
products without valid prescription orders for individually identified
patients.

5. The State will notify FDA by sending an email to
StateMOU@fda.hhs.gov within 30 days of identifying a pharmacy or
physician within its jurisdiction that has distributed inordinate amounts
of compounded drug products interstate and will include the
information described in section III.c.1.b of this MOU.

c. Submission and Disclosure of Information

1. When submitting information to StateMOU@fda.hhs.gov regarding
complaints relating to compounded drug products distributed outside
the State or regarding distribution of inordinate amounts of drugs
interstate, the following minimum information will be included:

a. Complaints:

i. Name and contact information of the complainant;

ii. Name and address of the pharmacy/physician that is the
subject of the complaint;
iii. Description of the complaint, including a description of any compounded drug product that is the subject of the complaint;

iv. State’s initial assessment of the validity of the complaint relating to a compounded drug product distributed outside the State, if available; and

v. Description and date of any actions the State has taken to address the complaint.

b. Inordinate Amounts:

i. Name and address of the pharmacy/physician that distributed inordinate amounts of compounded drug products interstate;

ii. The total number of prescription orders for compounded drug products distributed or dispensed intrastate;

iii. The total number of prescription orders for compounded drug products distributed interstate;

iv. The total number of prescription orders for sterile compounded drug products distributed interstate;

v. The number of States in which the compounding pharmacy or physician is licensed or into which the pharmacy or physician distributes compounded drug products, and

vi. Whether the State inspected for and found during its most recent inspection that the compounding pharmacy or physician distributed compounded human drug products without valid prescription orders for individually identified patients.

2. The parties to this MOU will share information consistent with applicable statutes and regulations. The parties recognize that a separate agreement under 21 CFR 20.88 or commissioning of officials under 21 CFR 20.84 may be necessary before FDA can share information that is protected from public disclosure. Such an agreement, or commissioning terms, will govern FDA’s sharing of the following types of information:

- Confidential commercial information, such as information that would be protected from public disclosure under Exemption 4
of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4));

- Personal privacy information, such as information that would be protected from public disclosure under Exemption 6 or 7(C) of the FOIA (5 U.S.C. 552(b)(6) and(7)(C)); or

- Information that is otherwise protected from public disclosure by Federal statutes and their implementing regulations (e.g., the Trade Secrets Act (18 U.S.C. 1905), the Privacy Act (5 U.S.C. 552a), other FOIA exemptions not mentioned above (5 U.S.C. 552(b)), the FD&C Act (21 U.S.C. 301 et seq.), the Health Insurance Portability and Accountability Act (Public Law 104-191), and FDA’s regulations in parts 20 and 21 (21 CFR parts 20 and 21)).

FDA agrees that information provided to FDA by the State of [insert State] will only be disclosed consistent with applicable Federal law and regulations governing the disclosure of such information, including, but not limited to, the FOIA (5 U.S.C. 552(b)), the FD&C Act (21 U.S.C. 301 et seq.), 21 U.S.C. 331(j), 21 U.S.C. 360j(c), the Trade Secrets Act (18 U.S.C. 1905), FDA’s regulations in 21 CFR parts 20 and 21, and other pertinent laws and regulations.

IV. ENFORCEMENT AUTHORITIES AND LEGAL STATUS OF AGREEMENT

The parties to this MOU recognize that FDA and the State of [insert State] retain the statutory and regulatory authorities provided by the FD&C Act, other Federal statutes and attendant regulations, and State statutes and regulations. The parties also recognize that this agreement does not restrict FDA or any other Federal agency from taking enforcement action, when appropriate, to ensure compliance with Federal statutes, including the FD&C Act and attendant regulations, or prevent the State of [insert State] from taking enforcement action, as appropriate, to ensure compliance with applicable State statutes and regulations. This MOU does not create or confer any rights for or on any person. By signing this MOU, the [insert name of State agency] affirms that it now possesses and will maintain, at the discretion of the State legislature, the legal authority (under State statutes and/or regulations) and the resources necessary to effectively carry out all aspects of this MOU. If State law changes such that the State no longer has the legal authority or resources necessary to effectively carry out all aspects of this MOU, the State will notify FDA.

V. NAME AND ADDRESS OF PARTICIPATING AGENCIES

U.S. Food and Drug Administration
Center for Drug Evaluation and Research
Upon signing the MOU, each party must designate one or more liaisons to act as points of contact. Each party may designate new liaisons at any time by notifying the other party’s liaison(s) in writing. If, at any time, an individual designated as a liaison under this agreement becomes unavailable to fulfill those functions, the parties will name a new liaison within 2 weeks and notify the other party’s liaison(s).

VI. PERIOD OF AGREEMENT

a. When accepted by both parties, this MOU will be effective from the date of the last signature and will continue until terminated by either party. It may be terminated in writing by either party, upon a 30-day notice of termination. Notice of termination will be sent to the address listed in section V of this MOU.

b. If the State does not adhere to the provisions of this MOU, including conducting an investigation of complaints related to compounded drug products distributed outside the State, the MOU may be terminated upon 30-days’ notice of termination.

In case of termination, FDA will post a notice of the termination on its Web site and the State will notify all licensed pharmacists, pharmacies, and physicians within the State of the termination and advise them that as of 30 days from the date of the posting of the termination notice, compounded drug products may be distributed (or caused to be distributed) out of the State only in quantities that do not exceed 5 percent of the total prescription orders dispensed or distributed by the licensed pharmacy or physician (section 503A(b)(3)(B)(ii) of the FD&C Act).

VII. APPROVALS

<table>
<thead>
<tr>
<th>APPROVED AND ACCEPTED FOR THE U.S. FOOD AND DRUG ADMINISTRATION</th>
<th>APPROVED AND ACCEPTED FOR THE STATE OF [insert State ]</th>
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<td>By (Type Name)</td>
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Appendix A. Definition of Terms Used in the MOU

- **Adverse Drug Experience**: Any adverse event associated with the use of a drug in humans, whether or not considered drug related, including the following: an adverse event occurring in the course of the use of a drug product in professional practice; an adverse event occurring from drug overdose, whether accidental or intentional; an adverse event occurring from drug abuse; an adverse event occurring from drug withdrawal; and any failure of expected pharmacological action (21 CFR 310.305(b)).

- **Distribution**: Distribution means that a compounder has sent a drug product out of the facility in which the drug was compounded. Such distribution may include, but is not limited to, delivery or shipment to a physician’s office, hospital, or other health care setting for administration, and dispensing the drug product by sending it to a patient for the patient’s own use.

Note: To qualify for the exemptions under section 503A, a compounder must obtain a prescription for an individually identified patient (section 503A(a) of the FD&C Act). This MOU will not alter this condition.

- **Product Quality Issue**: Information concerning (1) any incident that causes the drug product or its labeling to be mistaken for, or applied to, another article; or (2) any bacteriological contamination; any significant chemical, physical, or other change or deterioration in the distributed drug product; or any failure of one or more distributed batches of the drug product to meet the applicable specifications (21 CFR 314.81(b)(1)). Contamination in general, including but not limited to mold, fungal, bacterial, or particulate contamination, is a product quality issue.

- **Serious Adverse Drug Experience**: Any adverse drug experience occurring at any dose that results in any of the following outcomes: death, a life-threatening adverse drug experience, inpatient hospitalization or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect. Important medical events that may not result in death, be life-threatening, or require hospitalization may be considered a serious adverse drug experience when, based upon appropriate medical judgment, they may jeopardize the patient or subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition. Examples of such medical events include allergic bronchospasm requiring intensive treatment in an emergency room or at home, blood dyscrasias or convulsions that do not result in inpatient hospitalization, or the development of drug dependency or drug abuse (21 CFR 310.305(b)).

- **Serious Product Quality Issue**: Any product quality issue that may have the potential to cause a serious adverse drug experience (e.g., possible contamination, superpotent product).
November 13, 2018

Michael Boeger
Missouri Department of Health and Senior Services
Bureau of Narcotics and Dangerous Drugs
P.O. Box 570
Jefferson City, Missouri 65102

Mr. Boeger:

Please see the following comments from the Missouri Board of Pharmacy regarding pending rules proposed by the Missouri Bureau of Narcotics and Dangerous Drugs. The Board supports the promulgation of these rules which will play a key role in combatting Missouri’s opioid crisis.

19 CSR 13-1.023 (Registration Changes)

- Section (1)(D) currently provides “Collection receptacles located in long-term care facilities shall be maintained by a retail pharmacy.” The Board recommends allowing hospital pharmacies to also maintain a collection receptacle in a long-term care facility.

19 CSR 13-1.064 (Partial Fill of Controlled Substances Prescriptions)

- Section (1): The Comprehensive Addiction and Recovery Act (CARA) distinguishes between partial fills for emergency purposes and partial fills based on a patient/prescriber request. The Board recommends revising the rule to clearly delineate when the 72-hour limit applies versus the 6-month allowance referenced in proposed section (2).
- The deleted section (2) allows partial fills for long-term care and terminally ill patients without a request from the patient or prescriber. The Board recommends retaining this allowance for LTC/terminally ill patients while limiting the newly proposed section (2) to partial fills based on a patient or prescriber request.
- Section (2)(C) references “approved electronic computer applications.” Currently, electronic systems are required to meet federal requirements but are not officially “approved.” The Board recommends deleting the term “approved.”
• Section (2)(E) appears to provide no dispensing of a partially-filled controlled substance prescription may occur later than “six (6) months after the original prescription was issued.” The Board recommends revising the rule to clarify that partial fills of a C-V must be completed within 6-months, however, C-V prescriptions are still valid for one (1) year as provided by current law. Specifically, the Board recommends revising section (2)(E) to provide: “No dispensing of any remaining partially filled quantity occurs after six (6) months after date on which the original prescription was issued.”

19 CSR 13-1.078 (Disposing of Unwanted Controlled Substances)

• Section (1)(C) requires submission of Form 41 to the DEA to request authorization to dispose of controlled substances. The Board has been advised the DEA no longer requires submission of the form to their offices. Instead, the form can be kept in the registrant’s records to document destruction. The Board recommends revising this section to recognize DEA’s current allowance.

• Section (1)(F): The Board recommends adding a section that would allow a controlled substances registrant to also destroy controlled substances on-site as authorized by 21 CFR 1317.95(d).

• Section (2)(B) would allow medication in patient care areas to be destroyed via a method authorized in section (1) which would include a collection receptacle box or a mail-back program. The Board suggests amending this section if DHSS does not intend to allow use of a collection receptacle box or mail-back program to destroy medication from patient care areas.

• Section (2)(C): The Board suggests clarifying the difference between a “hospital patient care area” as referenced in section (2)(C) and a “patient care area” as referenced in section (2)(A).

• Section (3): The Board recommends adding mail-back programs to the title of this section.

• Section (3)(A): Manufacturers, distributors and reverse distributors are not listed in the designation of registrants eligible to operate a collection receptacle/mail-back program. The Board recommends adding these entities if the intent is to include them under section (3).

The Board appreciates the opportunity to provide comments. Please feel free to contact the Board’s office if you have any questions or need further assistance.
Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 1—Controlled Substances  

PROPOSED AMENDMENT  

19 CSR 30-1.023 Registration Changes. The department is amending sections (1) and (2).

PURPOSE: This proposed rule amendment allows authorized registrants to modify their registration to allow the collection of unwanted controlled substances.

(1) Modification of Registration.
(A) Any registrant may apply to modify his/her registration to authorize the handling of controlled substances in additional schedules by submitting a request in writing to the department. No fee shall be required to be paid for the modification. The application for modification shall be handled in the same manner as an application for registration.

(B) Any registrant may request to modify his or her name or address as shown on the registration provided that such a modification does not constitute a change of ownership or location. The request shall be made in writing, and no fee shall be required to be paid for the modification. The request for changes may be submitted electronically using the department’s online database system. Requests submitted in paper form shall contain the registrant’s signature.

(C) When the registrant’s name or address as shown on the registration changes, the registrant shall notify the Department of Health and Senior Services in writing, including the registrant’s signature, prior to or within thirty (30) days subsequent to the effective date of the change. No fee shall be required to be paid for the modification.

(D) Collector of Unwanted Controlled Substances. A current registrant with the department may request to have their registration modified to authorize the collection of unwanted controlled substances. Requests shall be submitted in writing to the Bureau of Narcotics and Dangerous Drugs, PO Box 570, Jefferson City, Missouri, 65102-0570. Requests shall provide the requesting registrant’s name, address, and current Missouri Controlled Substances Registration number. Requests shall identify the method of collection such as either a collection receptacle box or mail-back return system, or both, and shall identify the exact physical address of the receptacle. Collection receptacles located in long-term care facilities shall be maintained by a retail pharmacy. The bureau will respond to the registrant’s request in writing. Registrants authorized by the department to collect unwanted controlled substances shall comply with all requirements for record keeping and security in accordance with federal regulations. The privilege of being a collector may be terminated if the registrant’s authority to collect is terminated by the United States Drug Enforcement Administration, a judicial order, an act by a state licensing board or agency, or if the collector’s registration is restricted as a matter of public discipline by the department. An authorized collector who wishes to cease being a collector shall notify the bureau in writing of the date that collections will cease.

(2) Termination of Registration.
(A) The registration of any person shall terminate—
1. On the expiration date assigned to the registration at the time the registration was issued;
2. If and when the person dies;
3. If and when the person ceases legal existence;
4. If and when a business changes ownership, except—
   A. The registration shall not terminate for thirty (30) days from the effective date of the change if the new owner applies for a registration within the thirty- (30)-day period and the corresponding Drug Enforcement Administration registration remains effective as provided for by the Drug Enforcement Administration;
5. If and when the person discontinues business or changes business location, except—
   A. The registration shall not terminate for thirty (30) days from the effective date of the change if the person applies for a new registration or modification within the thirty- (30)-day period; or
6. Upon the written request of the registrant.

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, by contacting Michael Boeger with the Missouri Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 1—Controlled Substances  

PROPOSED AMENDMENT  

19 CSR 30-1.064 Partial Filling of [Schedule II] Controlled Substance Prescriptions. The department is modifying the title of the rule, eliminating section (2), and adding a new section (2).

PURPOSE: This proposed rule amendment establishes conditions under which the partial filling of prescriptions in Schedules II, III, IV, or V is permissible.

(2) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness, may be filled in partial quantities to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist must contact the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record on the prescription whether the patient is “terminally ill” or an “LTCF patient.” A prescription that is partially filled and does not contain the notation “terminally ill” or “LTCF patient” shall be deemed to have been filled in violation of Chapter 195, RSMo. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist.
The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions for patients in an LTCF or patients with a medical diagnosis documenting a terminal illness, shall be valid for a period not to exceed sixty (60) days from the issue date unless sooner terminated by the discontinuance of medication.

(2) The partial filling of a prescription for controlled substances listed in Schedules II, III, IV, or V is permissible, provided that:

(A) Partial filling may occur at the request of a patient or it may be directed by the prescribing physician;

(B) Each partial dispensing is recorded in the same manner as a refilling would be;

(C) With each partial dispensing, the pharmacy must document the date and quantity dispensed on the original prescription record or their approved electronic computer applications, provided that the electronic system meets all of the federal requirements for handling of electronic prescriptions for controlled substances, including the ability to retrieve the information pertaining to partially filled controlled substances;

(D) The total quantity dispensed in all partial fillings cannot exceed the total quantity prescribed;

(E) No dispensing occurs after six (6) months after the date on which the original prescription was issued;

(F) A partial dispensing is not considered a “refill” if the patient does not receive the full authorized amount at one (1) time; and

(G) The prescription was written and filled in accordance with all other applicable laws and regulations.


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 Michael Boeger, Administrator, Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs, PO Box 570, Jefferson City, Missouri 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 1—Controlled Substances

PROPOSED AMENDMENT

19 CSR 30-1.078 Disposing of Unwanted Controlled Substances.
The department is amending sections (1) and (3), and repealing sections (2) and (4), to be replaced with new sections (2) and (4).

PURPOSE: This amendment establishes the process for authorized registrants to collect unwanted controlled substances through collection receptacles or a mail-back program and amends requirements for destruction of controlled substances by registrants.

(1) A registrant in possession of any controlled substance(s) and desiring or required to dispose of such substance(s) shall:

(A) Return the controlled substance(s) to the original supplier;

(B) Transfer the controlled substance(s) to a distributor authorized to accept controlled substance(s) for the purpose of disposal;

(C) Submit a DEA Form 41 to the federal Drug Enforcement Administration (DEA) requesting authorization to dispose of the controlled substance(s) in compliance with federal regulations;

(D) Become an Authorized Collector of Controlled Substance(s). Registrants shall dispose of all unwanted controlled substance(s) and keep records in accordance with federal regulations. Only manufacturers, distributors, reverse distributors, narcotic treatment programs, hospitals, and retail pharmacies that have modified their state and federal controlled substances registrations may possess a collection receptacle for medication disposal or participate in the DEA approved mail-back system;

[(E) Contact the Bureau of Narcotics and Dangerous Drugs (BNDD), Department of Health and Senior Services for information pertaining to subsections (1)(A), (B), (I), (C), or (D) of this rule.

[(2) The return, transfer or disposal of any controlled substance shall be documented in accordance with 19 CSR 30-1.044.]

(2) Destruction of controlled substance(s) in patient care areas.

(A) Controlled substance(s) that have been contaminated by patient contact are to be destroyed on site. An excess volume of a controlled substance which must be discarded from a dosage unit just prior to administration shall also be destroyed on site.

(B) Controlled substances that have not been contaminated by patient contact or are not excess volumes of a dosage unit shall not be destroyed on site unless the registrant has obtained authorization from the United States Drug Enforcement Administration to dispose such drugs and destruction is documented on the DEA Form 41. Unwanted controlled substances that have been expired, discontinued, or are otherwise unwanted shall be disposed of by methods listed previously in section (1) of this rule.

(C) In a hospital patient care area, unwanted controlled substance(s) that have not been contaminated by patient contact shall be returned to the pharmacy for final disposal.

(D) The destruction of controlled substance(s) shall be in such a manner that it renders the medication unrecoverable and beyond reclamation so that it cannot be diverted.

(E) The destruction and documentation of destruction shall be performed and completed by two (2) people. One (1) of the people must be a licensed physician, nurse, pharmacist, intern pharmacist, pharmacy technician, assistant physician, physician assistant, podiatrist, optometrist, dentist, or veterinarian. The second person, the witness, is not required to be a licensed medical professional but must be an employee of the registrant, unless in an Emergency Medical Service (EMS) setting.

(F) The following shall be entered in the controlled substance administration record or a separate controlled substance destruction record when the controlled substance is destroyed in the patient care area: the date and hour of destruction, the name and strength, the amount destroyed, the reason for destruction, the patient’s name and room number if applicable, and the names or initials of the two (2) persons performing the destruction. The controlled substance administration and destruction records are to be retained for two (2) years and available for inspection by the Department of Health and Senior Services;

(3) In the event the registrant is a hospital, the following procedures are to be used for the destruction of controlled substance(s):

(A) When disposal of controlled substance(s) is in patient care areas—
1. Controlled substances which are contaminated by patient body fluids are to be destroyed by a physician, nurse, or a pharmacist in the presence of another hospital employee;

2. An excess volume of a controlled substance which must be discarded from a dosage unit just prior to use shall be destroyed by a nurse, pharmacist, or physician in the presence of another hospital employee;

3. The remaining contents of opened glass ampules of controlled substance(s) shall be destroyed by a nurse, pharmacist, or physician in the presence of another hospital employee;

4. Single units of single dose packages of controlled substance(s) which are contaminated other than by patient body fluids and are not an infectious hazard, [or] have been removed from their original or security packaging, [or] are partially used, or are otherwise rendered unsuitable for patient use shall be destroyed by a nurse, pharmacist, or physician and the witnessing hospital employee shall sign the entry. The drug shall be destroyed so that it is beyond reclamation. The controlled substances administration or destruction records are to be retained for two (2) years and available for inspection by Department of Health investigators;

5. The following shall be entered in the controlled substance administration record or a separate controlled substance destruction record when the controlled substance(s) is destroyed in the patient care area: the date and hour of destruction, the drug name and strength, the amount destroyed, the reason for destruction, and the patient’s name and room number. The nurse, pharmacist, or physician and the witnessing hospital employee shall sign the entry. The drug shall be destroyed so that it is beyond reclamation. The controlled substance administration or destruction records are to be retained for two (2) years and available for inspection by Department of Health investigators;

6. All other controlled substances which are not patient contaminated but which are to be disposed of shall be returned to the pharmacy for disposal;

(B) When disposal of controlled substance(s) is in the pharmacy—

1. Single units of controlled substance(s) which are contaminated other than by patient body fluids and are not an infectious hazard, [or] have been removed from their original or security packaging, [or] are partially used, or are otherwise rendered unsuitable for patient use shall be destroyed by a pharmacist in the presence of another hospital employee or held for later destruction;

2. All other controlled substances which are not patient contaminated but are to be disposed of shall be placed in a suitable container for storage and disposed of as described in section (1) of this rule.

(4) If the registrant administers controlled substances and is not a hospital, the following procedures are to be used for the destruction of controlled substances:

(A) Controlled substances which are contaminated by patient body fluids are to be destroyed, in the presence of another employee, by the registrant or designee authorized to administer;

(B) An excess volume of a controlled substance which must be discarded from a dosage unit just prior to use is to be destroyed, in the presence of another employee, by the registrant or designee authorized to administer;

(C) The remaining contents of opened glass ampules of controlled substances which are not patient contaminated are to be destroyed, in the presence of another employee, by the registrant or designee authorized to administer;

(D) When the controlled substance is destroyed by the registrant or designee authorized to administer, the following shall be entered in the controlled substances administration records or a separate controlled substances destruction record: the date and amount destroyed, the reason for destruction and the registrant’s name and address. The registrant or designee doing the destruction and the witnessing employee shall sign the entry. The drug shall be destroyed so that it is beyond reclamation. The controlled substances administration or destruction records are to be retained for two years and available for inspection by Department of Health investigators;

(E) All other controlled substances which are not patient-contaminated but are to be disposed of shall be placed in a suitable container for storage and disposed of as described in section (1) of this rule.

(4) Collection Receptacle Boxes for Patients’ Unwanted Controlled Substance Prescriptions.

(A) Hospitals, pharmacies, narcotic treatment programs, and long-term care facilities are authorized to install collection receptacle boxes or participate in a DEA approved mail-back method to collect unwanted controlled substance prescription medications from patients. Registrants must comply with federal regulations regarding security and record keeping. Collection receptacles shall be used only for patients’ unwanted medications and not for the expired or unwanted stock of a practitioner or facility.

(B) All facilities and locations with collection receptacle boxes and mail-back systems shall comply with federal regulations.

1. Patients’ medications from long-term care facilities and narcotic treatment programs shall be placed in a receptacle within three (3) days of the expiration date on the medication; upon a discontinuation of use authorized by a prescriber; or upon the death of a patient.

2. Collection receptacle boxes shall be installed, maintained, and managed by a retail pharmacy or hospital pharmacy.

(C) Record keeping for collection receptacle boxes. Registrants or their employees shall not inventory the contents of the collection receptacle box. The collection receptacle box is to be opened by two (2) people; one (1) shall be an employee of the pharmacy and the other may be an employee of the facility receiving pharmaceutical services. All registrants with collection receptacle boxes shall maintain a perpetual log that documents entry into the collection receptacle box, changing of liners, and transfers of drugs from the registrant to a reverse distributor. These logs shall be maintained on file at the registered location for inspection and shall document the date of entries into the collection receptacle box, the names of the employees entering the collection receptacle box, the reason for entering the receptacle, the serial number of a liner being removed, and the serial number of a new liner being installed. This log shall also be used to document the transfer of a liner from the registrant to a reverse distributor by documenting the date of transfer, serial number of the liner, names of the persons involved in the transfer, and the DEA number of the reverse distributor. The log shall also document when the pharmacy changes out the interior liner bags and document the serial number of the bag being removed and of the new bag being installed.


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, by contacting Michael Boeger with the Missouri Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs, PO Box 570, Jefferson City, MO 65102-0570. 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.
This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the Missouri Register; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the Code of State Regulations.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its Order of Rulemaking for publication in the Missouri Register begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 240—Public Service Commission**

**Chapter 3—Filing and Reporting Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 386.250, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-3.105 Filing Requirements for Electric Utility Applications for Certificates of Convenience and Necessity is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 979). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

**SUMMARY OF COMMENTS:** The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission; the Office of the Public Counsel; Dogwood Energy, LLC; Union Electric Company, d/b/a Ameren Missouri; Ameren Transmission Company of Illinois (ATXI); Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (KCP&L/GMO); The Empire District Electric Company; the Missouri Division of Energy; and Wind on the Wires. Kevin Thompson, representing the commission's staff, and Natelle Dietrich, on behalf of staff; Hampton Williams, Public Counsel; James Fischer, representing KCP&L/GMO; Paul Boudreau, representing Empire; Marc Poston, representing the Division of Energy; Sean Brady, representing Wind on the Wires; James Lowery, representing Ameren Missouri and ATXI, and Thomas Byrne, on behalf of Ameren Missouri, appeared at the hearing and offered comments.

The commission has proposed to rescind this Chapter 3 rule, revise its contents, and promulgate a new rule in Chapter 20. Most of the comments address the provisions of the new Chapter 20 rule and will be addressed in the final order of rulemaking for that rule. Only those comments regarding the rescission of the Chapter 3 rule will be addressed in this order of rulemaking.

**COMMENT #1:** Staff explained that the rescission of this Chapter 3 rule and the promulgation of a new Chapter 20 rule is designed to simplify the commission's rules by combining most, if not all, electric-only rules into a single electric utility chapter.

**RESPONSE:** The commission thanks staff for its explanation.

**COMMENT #2:** Public Counsel's written comment points out that the rescission of the Chapter 3 rule and its re-promulgation as a Chapter 20 rule is contrary to the commission's stated intent when it created Chapter 3 in 2002 to gather all procedural requirements for all utilities into a single chapter of its rules.

**RESPONSE:** The commission has changed its view on the collection of all procedural requirements for all utilities into a single chapter of its rules. The commission's experience since 2002 has shown that collecting all procedural requirements into a single chapter has created more confusion than it relieved as stakeholders must consult two (2) or more distinct chapters of the rules to be sure they have found all relevant rule requirements. The commission will continue to move those Chapter 3 procedural rules that affect a single utility classification into the rules that apply to that utility classification as it is appropriate to do so.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 240—Public Service Commission**

**Chapter 20—Electric Utilities**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 386.250, RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-20.045 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the Missouri Register on May 15, 2018 (43 MoReg 979–981). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the Code of State Regulations.

**SUMMARY OF COMMENTS:** The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rule on June 19, 2018. The commission received timely written comments from the staff of the commission; the Office of the Public Counsel; Dogwood Energy, LLC; Union Electric Company, d/b/a Ameren Missouri; Ameren Transmission Company of Illinois (ATXI); Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (KCP&L/GMO); The Empire District Electric Company; the Missouri Division of Energy; and Wind on the Wires. Kevin Thompson, representing the commission’s
staff, and Natelle Dietrich, on behalf of staff; Hampton Williams, Public Counsel; James Fischer, representing KCP&L/GMO; Paul Boudreau, representing Empire; Marc Poston, representing the Division of Energy; Sean Brady, representing Wind on the Wires; James Lowery, representing Ameren Missouri and ATXI, and Thomas Byrne, on behalf of Ameren Missouri, appeared at the hearing and offered comments.

COMMENT #1: Subsection (1)(A) defines the term “acquire or acquisition” for purposes of the rule. This definition would be necessary if other provisions of the rule require an electric utility to seek a certificate of convenience and necessity (CCN), a CCN, when it acquires existing electric plant from some other entity. Ameren Missouri, KCP&L/GMO, and Public Counsel oppose what they believe is an improper expansion of the commission’s statutory authority to require an electric utility to obtain a CCN before acquiring existing electric plant and thus would delete this definition as unnecessary. During the hearing, staff suggested that the rule be modified to require an electric utility to obtain a CCN when it wants to “operate” existing electric plant that it does not already own, rather than when it seeks to “acquire” such plant. With that change, staff also supports the elimination of this definition. Dogwood would keep the definition, but would insert the word “obtaining” into the definition.

RESPONSE AND EXPLANATION OF CHANGE: The commission will strike the definition of “acquire or acquisition” from the rule and instead will refer to “operation” throughout the rule. Subsequent provisions of the section will be renumbered accordingly.

COMMENT #2: Subsection (1)(B) defines the term “asset,” which are the items of electric plant for which the rule requires an electric utility to seek a CCN. Ameren Missouri and KCP&L/GMO would eliminate the aspects of the definition that would define asset as including assets located outside the state of Missouri, as well as existing assets to be “acquired,” as addressed in comment #1. Dogwood would add “switching station” and “electric transmission line” to the list of described assets. Public Counsel would define “generating plant asset” rather than “asset.” In addition, Public Counsel, as well as Ameren Missouri, expressed concern that use of the word “includes” at the start of the definition is ambiguous in that it does not make it clear whether the definition is exhaustive. Ameren Missouri explains that the utilities must be certain whether they will be required to seek a CCN for a particular project or else they will need to seek a CCN for every project in order to protect themselves from allegations of failing to obtain a CCN when one is needed.

RESPONSE AND EXPLANATION OF CHANGE: The commission will modify the definition of asset to clarify that it includes electric generating plant that is expected to serve Missouri customers and will be included in the applicant’s rate base used to set rates for Missouri customers, whether that plant is in or outside the utility’s existing service territory and in or outside the state of Missouri. The definition will further clarify that a transmission or distribution asset for which a CCN is required would include only assets located outside the utility’s existing service area, but within Missouri. The definition will also be clarified to demonstrate the exhaustive nature of the list by changing “includes” at the start of the definition to “means.”

COMMENT #3: Subsection (1)(C) and its constituent paragraphs and subparagraphs seek to define the term “construction” by specifying five (5) projects that would fit the definition. Again, Public Counsel and Ameren Missouri express concern that use of “includes” at the start of the definition is ambiguous.

RESPONSE AND EXPLANATION OF CHANGE: The commission will change “includes” to “means” at the beginning of the definition to avoid any ambiguity.

COMMENT #4: Paragraph (1)(C) would include as “construction,” construction of a new electric transmission line or a rebuild of a transmission line if it would result in a significant increase in the capacity of the line, or if there is a change in the route or easements associated with the line. Ameren Missouri is concerned this definition would result in an increase in the number of CCNs required by the rule. Additionally, Ameren Missouri is concerned that the term “significant” is ambiguous and does not provide clear guidance on when a CCN will be required. Further, Ameren Missouri, Empire, and KCP&L/GMO indicate the expansion of the definition of construction to include any “rebuild” of an existing asset is contrary to the statute’s requirement for a CCN before beginning “construction.” They contend an asset that is being rebuilt has already been constructed and therefore the statute does not give the commission authority to require a CCN. In addition, Ameren Missouri argues the definition of “construction” must not include any project within the electric utility’s existing service area because to do so would increase the number of CCNs required by the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission will substantially rewrite the definition of construction in response to the concerns raised in the comments. However, the commission continues to believe a substantial improvement, retrofit, or rebuild of an electric asset does require the issuance of a CCN. To avoid the problems identified by the commenters, the commission will limit the CCN requirement for such projects to those that would increase the utility’s established rate base by ten percent (10%) or more.

COMMENT #5: Paragraph (1)(C)3 would define as construction for which a CCN is required, construction of a new substation or the rebuild of an existing substation that would result in a significant increase in capacity or size of the substation. Again, Ameren Missouri is concerned that this definition would result in an increase in the number of CCNs required by the rule. Additionally, Ameren Missouri is concerned that the term “significant” is ambiguous and does not provide clear guidance on when a CCN will be required. Further, Ameren Missouri, Empire, and KCP&L/GMO indicate the expansion of the definition of construction to include any “rebuild” of an existing asset is contrary to the statute’s requirement for a CCN before beginning “construction.” They contend that an asset that is being rebuilt has already been constructed and therefore the statute does not give the commission authority to require a CCN. In addition, Ameren Missouri argues the definition of “construction” must not include any project within the electric utility’s existing service area because to do so would increase the number of CCNs required by the rule.

RESPONSE AND EXPLANATION OF CHANGE: See the response to comment #4. This particular paragraph has been removed from the rule.

COMMENT #6: Paragraph (1)(C)4 would define as construction for which a CCN is required, construction or rebuild of a gas transmission line that facilitates the operation of an electric generating plant. Again, Ameren Missouri is concerned that this definition would result in an increase in the number of CCNs required by the rule. Additionally, Ameren Missouri is concerned that the term “significant” is ambiguous and does not provide clear guidance on when a CCN will be required. Further, Ameren Missouri, Empire, and KCP&L/GMO indicate the expansion of the definition of construction to include any “rebuild” of an existing asset is contrary to the statute’s requirement for a CCN before beginning “construction.” They contend that an asset that is being rebuilt has already been constructed and therefore the statute does not give the commission authority to require a CCN. In addition, Ameren Missouri argues the definition of “construction” must not include any project within the electric utility’s existing service area because to do so would increase the number of CCNs required by the rule.

RESPONSE AND EXPLANATION OF CHANGE: See the response to comment #4. This particular paragraph has been removed from the rule.

COMMENT #7: Paragraph (1)(C)5 and subparagraphs A.–D. would
define as construction for which a CCN is required, an improvement or retrofit of an electric generating plant that will substantially increase the capacity of the generating plant, materially change the discharge of the plant, increase the useful life of the plant, or increase the utility’s rate base by ten percent (10%). Again, Ameren Missouri is concerned that this definition would result in an increase in the number of CCNs required by the rule. Additionally, Ameren Missouri is concerned that the term “significant” is ambiguous and does not provide clear guidance on when a CCN will be required. Further, Ameren Missouri, Empire, and KCP&L/GMO indicate the expansion of the definition of construction to include any “rebuild” of an existing asset is contrary to the statute’s requirement for a CCN before beginning “construction.” They contend that an asset that is being rebuilt has already been constructed and therefore the statute does not give the commission authority to require a CCN. In addition, Ameren Missouri argues the definition of “construction” must not include any project within the electric utility’s existing service area because to do so would increase the number of CCNs required by the rule. Ameren Missouri is also concerned that subparagraph (1)(C)(5.D. does not establish a clear baseline to measure a ten percent (10%) increase in the utility’s rate base.

RESPONSE AND EXPLANATION OF CHANGE: See the response to Comment #4. This paragraph and its subparagraphs have been removed from the rule, except for subparagraph (1)(C)(5.D.’s provision that requires a CCN application for the improvement, retrofit, or rebuild of an asset that will increase the utility’s total rate base by ten percent (10%). A baseline has also been established for which to measure the ten percent (10%) increase.

COMMENT #8: Subsection (1)(D) and its constituent paragraphs seek to define what projects are not “construction” and therefore do not require a CCN. Paragraph (1)(D)(1) exempts construction of new electric or gas transmission lines if the lines are to be constructed within the electric utility’s Missouri certificated service area. Ameren Missouri points out a contradiction between the exemption offered by this paragraph and paragraphs (1)(C)(2) and 4., which would require a CCN for such projects. Ameren Missouri urges the commission to amend the rule so that no CCN is required for such projects within the electric utility’s service area. Dogwood would add “substation,” and “switching station” to the list of exempted projects.

RESPONSE AND EXPLANATION OF CHANGE: The commission will modify this provision of the rule to exclude from the definition of construction the new electric or gas transmission lines constructed within the utility’s certificated service area. The commission will make no change in response to this comment.

COMMENT #9: Paragraph (1)(D)(3) exempts from construction CCN transmission projects where the only relationship to Missouri ratepayers is through the Regional Transmission Organization (RTO) cost allocation process. Public Counsel and Wind on the Wires express concern that this definition is unclear. Neither propose a language change, but Wind on the Wires suggests the commission clarify that the paragraph encompasses Midcontinent Independent System Operator (MISO)’s Market Efficiency Projects, Multi-Value Projects, Generator Interconnection projects that are cost shared, and inter-regional projects. Dogwood would add a language change to tie the relationship to retail rates paid by Missouri ratepayers through a regional cost allocation.

RESPONSE AND EXPLANATION OF CHANGE: See the response to comment #4. This paragraph has been removed from the rule.

COMMENT #10: ATXI proposes to add a definition of “non-incumbent electric provider” to describe such a provider as “a Federal Energy Regulatory Commission-regulated transmission company that does not serve Missouri retail customers.” The Division of Energy suggests a definition of “non-incumbent electric provider” is needed to ensure the rule’s provisions do not apply to individual residential, small commercial, or industrial customers who own their own generating resources. Ameren Missouri, KCP&L/GMO, Wind on the Wires, and Division of Energy support ATXI’s proposed definition.

RESPONSE AND EXPLANATION OF CHANGE: The commission will not add the proposed definition, but, instead, will not use the term “non-incumbent electric provider” within the rule.

COMMENT #11: Dogwood proposes a new subsection (2)(A) that would clearly describe and summarize the requirements of the rule by stating when an electric utility must obtain a CCN. Ameren Missouri opposes any provision that would purport to expand the CCN requirements stated in the controlling statute. At the hearing, staff agreed with much of Dogwood’s proposal.

RESPONSE: Dogwood’s proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #13: Dogwood proposes to change the wording in subsection (2)(A) to require an application to show that granting the application is necessary and convenient, rather than necessary or convenient.

RESPONSE: The controlling statute requires a showing of necessary or convenient. The commission will make no change in response to this comment.

COMMENT #14: Dogwood offers a new subsection (2)(B) that would require an applicant for a CCN to produce evidence that it has complied with all applicable municipal ordinances. Ameren Missouri opposes that suggestion.

RESPONSE: There is no need to explicitly require the additional evidence suggested by Dogwood. The commission will make no change in response to this comment.

COMMENT #15: Ameren Missouri proposes to strike existing subsection (2)(B) because it would apply only to assets acquired or constructed outside Missouri, which Ameren Missouri contends is an unlawful expansion of the commission’s statutory authority. Empire and Public Counsel share that position.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes the controlling statute gives it authority to require a CCN where the asset to be constructed or operated is outside this state if it is expected to serve Missouri customers and will be included in the utility’s rate base. The word “acquired” will be changed to “operated.” See the response to comment #1.

COMMENT #16: Dogwood would make the reference to jurisdiction in subsection (2)(B) plural in recognition of the fact that multiple jurisdictions might be affected.

RESPONSE: Dogwood’s proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #17: Ameren Missouri proposes to modify subsection (2)(C) to eliminate the sentence that requires initially unavailable items be provided to the commission before authority under the certificate is exercised. In its place, it would require that items needed
to perform a specific portion of the construction is obtained and filed before that portion of the construction commences. KCP&L/GMO commented that the subsection as proposed was a proper clarification. It did not respond to Ameren Missouri’s proposed modification. RESPONSE: The concerns raised by Ameren Missouri are addressed in the proposed rule and additional clarification is unnecessary. The commission will make no change in response to this comment.

COMMENT #18: Public Counsel notes that subsections (2)(D) and (E) are not general requirements in the same way that subsection (2)(A), (B), and (C) are and suggests they be moved to a different position within the rule.

RESPONSE AND EXPLANATION OF CHANGE: Public Counsel’s comment is well taken. Subsections (2)(D) and (E) have been moved to new section (2) and have been renumbered as (2)(B) and (C).

COMMENT #19: Subsection (2)(E) recognizes the commission’s authority to make a decisional prudence determination about a decision to construct or acquire electric plant. Ameren Missouri supports the concept of a decisional prudence determination, but would remove references in the rule to acquisition of assets, limiting it to construction only, and would also eliminate the references to specific types of assets. Dogwood proposes a similar edit. KCP&L/GMO takes issue with the portion of the subsection that references a “post-construction review of the project.” It would add a clarification that such a review would take place within a subsequent general rate case, not within the CCN application case. Public Counsel would eliminate the subsection because presumably the commission would never approve a CCN where the proposal was contrary to the public interest.

RESPONSE AND EXPLANATION OF CHANGE: The commission has rewritten this subsection, which is now (2)(C), in response to the comments. It will now apply to the operation or construction of “assets.” It also clarifies that the determination of decisional prudence will be subject to a “subsequent” review.

COMMENT #20: Ameren Missouri would specifically limit application of section (3) to Missouri service areas of the utility.

RESPONSE AND EXPLANATION OF CHANGE: The commission will not make the change proposed by Ameren Missouri, but will limit application of the section to applications for an area certificate pursuant to section 393.170.2, RSMo.

COMMENT #21: Subsection (3)(A) as proposed requires the application for a CCN to provide a map that identifies where each other entity providing electric service in the area to be certificate is currently providing retail electric service. Public Counsel suggests the map to be provided in subsection (3)(A) be at the same scale as the detailed plat map of the proposed service area required by subsection (3)(D).

RESPONSE: Public Counsel’s suggestion regarding the scale of the map is unnecessary. The commission will make no change in response to this comment.

COMMENT #22: Subsection (3)(C) as proposed requires the submission of “the legal description of the service area to be certificate.” Public Counsel would change that to “a legal description” in recognition that there may be more than one (1) way to legally describe the service area.

RESPONSE: The commission will make no change in response to this comment.

COMMENT #23: Dogwood proposes to add a reference to “leasing” to the reference to proposed financing in the description of “feasibility study” found in subsection (3)(E). Ameren Missouri opposes that change as capital leases are a means of financing and adding the reference would generate confusion.

RESPONSE AND EXPLANATION OF CHANGE: The commission will make no change in response to this comment. However, the requirement that the application include a three- (3-) year estimate of construction costs is unnecessary and will be removed from the rule.

COMMENT #24: Dogwood would add a new subsection (3)(F) that would require the applicant to provide a copy of its charter. Ameren Missouri opposes that requirement as unnecessary.

RESPONSE: Dogwood’s proposal is unnecessary. The commission will make no change in response to this comment.

COMMENT #25: Dogwood would add a new subsection (3)(G) that would require the applicant to provide a verified statement of the president or secretary of the corporation showing it has received the required consent of the proper municipal authorities. Ameren Missouri opposes that requirement as unnecessary.

RESPONSE: Dogwood’s proposal is unnecessary. The commission will make no change in response to this comment.

COMMENT #26: Section (4) describes what is to be filed as part of an application for a CCN to acquire an existing asset. The proposed language describes an application to “acquire assets.” Dogwood suggests that be changed to “acquire an asset.”

RESPONSE AND EXPLANATION OF CHANGE: The commission will change “acquire” to “acquire.” See the response to comment #1.

COMMENT #27: Ameren Missouri, KCP&L/GMO, and Empire urge the Commission to delete the entire section (4) because they believe requiring the utilities to seek a CCN when seeking to acquire an existing asset is beyond the authority granted to the commission by the controlling statute.

RESPONSE AND EXPLANATION OF CHANGE: The commission will change “acquire” to “acquired.” See the response to comment #1.

COMMENT #28: Subsection (4)(A) requires an application to acquire assets include a description of the asset to be acquired. Dogwood advises the commission to add “including location” to that requirement.

RESPONSE: The change proposed by Dogwood is unnecessary. The commission will make no change in response to this comment.

COMMENT #29: Subsection (4)(C) requires an application to acquire assets to include the purchase price and plans for financing the acquisition. Dogwood would add “or the terms of the proposed capital lease” to the requirement. Ameren Missouri opposes that change as unnecessary as a capital lease would be a part of the plan for financing the acquisition. Ameren Missouri says that if the language is included, it should say “including the terms of any capital lease used in the financing.”

RESPONSE: The change proposed by Dogwood is unnecessary. The commission will make no change in response to this comment.

COMMENT #30: Subsection (4)(D) requires an application to acquire assets to include “plans and specifications for the utility system.” Dogwood suggests the reference to “utility system” is undefined and should be changed to “asset.”

RESPONSE AND EXPLANATION OF CHANGE: The commission will make the change proposed by Dogwood.

COMMENT #31: Dogwood asks the commission to add a new subsection (4)(E) to require an application to acquire assets to include evidence that the electric utility has used a competitive bidding process to evaluate other reasonable alternatives. Ameren Missouri opposes that proposal.

RESPONSE AND EXPLANATION OF CHANGE: The commission disagrees with Dogwood’s proposal to create a new subsection to require submission of evidence that competitive bidding has been used. However, the commission will incorporate a new subsection
COMMENT #32: Section (5) describes what is to be filed as part of an application for a CCN to construct an asset. Dogwood asks the commission to include language to clarify that this section does not apply to applications for CCNs to construct electric or gas transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The commission disagrees with Dogwood’s comment, but will clarify that the rule applies to applications for a line certificate under section 393.170.1, RSMo.

COMMENT #33: Dogwood suggests subsection (5)(B) be modified to require a list of shared easements be included along with information about other facilities that will be affected by the proposed construction.

RESPONSE: Dogwood’s suggested revision is unnecessary. The commission will make no change in response to this comment.

COMMENT #34: Dogwood suggests subsection (5)(C) be modified to refer to “asset” in place of “electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant.” Ameren Missouri makes the same suggestion.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the proposed change to this subsection.

COMMENT #35: Dogwood suggests subsection (5)(D) be modified to refer to “asset” in place of “electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant.” Ameren Missouri makes the same suggestion. Empire suggests the entire subsection be deleted as unnecessary and unworkable.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(D) in the final rule. See response to comment #47. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #36: Subsection (5)(E) directs the applicant for a CCN to submit “an indication” of certain information. Public Counsel and Ameren Missouri suggest “an indication” be changed to “a statement.” Ameren Missouri suggests the subsection be modified to refer to “asset” in place of “electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant.” Dogwood would simplify the subsection to require “A description of any common plant included in the construction project.”

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(E) in the final rule. See response to comment #48. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #37: Subsection (5)(F) directs the applicant for a CCN to submit its plans for financing the asset to be constructed. Dogwood suggests the reference to “electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant” be changed to “asset.” Ameren Missouri suggests the phrase be changed to “project.”

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(F) in the final rule. See response to comment #49. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #38: Subsection (5)(G) directs non-incumbent electric providers that are applying for a CCN to submit an overview of their plans for operating and maintaining the proposed asset. Dogwood suggests the reference to “electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant” be changed to “asset.” Ameren Missouri makes the same suggestion. Dogwood and Division of Energy also express concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Public Counsel suggests the requirement of the subsection should not be limited to non-incumbent electric providers, however that phrase is defined.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(I) in the final rule. See response to comment #50. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #39: Subsection (5)(H) directs non-incumbent electric providers that are applying for a CCN to submit an overview of their plans for restoration of service after an unplanned outage. Dogwood suggests the reference to “electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant” be changed to “asset.” Ameren Missouri makes the same suggestion. Dogwood and Division of Energy also express concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Public Counsel suggests the requirement of the subsection should not be limited to non-incumbent electric providers, however that phrase is defined.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This requirement will appear as subsection (5)(I) in the final rule. See response to comment #51. Because of that consolidation, this subsection is unnecessary and will be removed from the rule.

COMMENT #40: Subsection (5)(I) would require an applicant for a CCN to submit evidence demonstrating that it used a non-discriminatory process to evaluate whether purchased energy is a reasonable alternative to the proposed construction. Dogwood and Division of Energy express concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Public Counsel suggests the reference to “electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant” be changed to “asset.” Ameren Missouri suggests the requirement of the subsection should not be limited to non-incumbent electric providers, however that phrase is defined.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. This subsection will be removed from the rule. A new subsection (5)(J) will be included in the final rule which will require only that the applicant provide a description of how the proposed asset relates to the utility’s adopted preferred resource plan filed under the commission’s Chapter 22 rules.

COMMENT #41: Subsection (5)(J) would require an applicant for a CCN to submit evidence demonstrating that it used a non-discriminatory competitive bidding process to evaluate whether purchased power or alternative energy supplies would be a reasonable alternative to the proposed construction. Dogwood expresses concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Dogwood also proposes some changes to the wording of the subsection. Empire suggests this requirement should be incorporated into the requirements of subsection (2)(E), Ameren Missouri and KCP&L/GMO argue the entire subsection should be removed...
from the rule. Wind on the Wires supports the bidding requirement, and the Division of Energy does not oppose that requirement, but welcomes the economic benefits that result from construction in Missouri.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. The subsection requiring competitive bidding will be removed from the rule. See response to comment #53. Subsection (5)(H) in the final rule relates to competitive bidding, but requires only an overview of whether and how such bidding was used in the planning of the project.

COMMENT #42: Subsection (5)(K) would require an applicant for a CCN to submit evidence demonstrating that it utilized or will utilize a competitive bidding process for entering into contracts related to the construction project. Dogwood expresses concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Dogwood also suggests the reference to “electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant” be changed to “asset.” Ameren Missouri and KCP&L/GMO argue the entire subsection should be removed from the rule.

RESPONSE AND EXPLANATION OF CHANGE: The new definition of “asset” found in subsection (1)(A) makes the distinction between sections (5) and (6) unnecessary. See response to comment #43. The subsection requiring competitive bidding will be removed from the rule. See response to comment #53. Subsection (5)(H) in the final rule relates to competitive bidding, but requires only an overview of whether and how such bidding was used in the planning of the project.

COMMENT #43: Section (6) describes additional information to be filed as part of an application for a CCN to acquire or construct an electric transmission line. Dogwood would expand the requirements of the section to the acquisition or construction of a natural gas transmission line used to serve an electric generating asset. Ameren Missouri and Empire would limit application of the section to proposed construction projects, not acquisition of existing transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that including a separate section of the rule regarding applications to construct a transmission line is unnecessary. The relevant portions of section (6) will be incorporated into section (5) regarding applications for a line certificate under section 393.170.1, RSMo.

COMMENT #44: Ameren Missouri suggests subsections (6)(A)–(I) be removed from the rule as duplicative since a transmission line is also an asset covered under section (5).

RESPONSE AND EXPLANATION OF CHANGE: See response to comment #43.

COMMENT #45: Dogwood suggests subsection (6)(B) be modified to require a list of shared easements be included along with information about other facilities that will be affected by the proposed construction.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes this subsection is unnecessary and will remove it from the rule.

COMMENT #46: Dogwood suggests application of subsection (6)(C) not be limited to electric transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes this subsection is unnecessary and will remove it from the rule.

COMMENT #47: Dogwood suggests application of subsection (6)(D) not be limited to electric transmission lines. Empire argues the rule should not require projected completion dates for the proposed construction.

RESPONSE AND EXPLANATION OF CHANGE: The commission will change the subsection to apply to “asset,” not just electric transmission lines. The requirement to describe projected completion dates is necessary and will not be deleted from the rule.

COMMENT #48: Subsection (6)(E) directs the applicant for a CCN to submit “an indication” of certain information. Dogwood would simplify the subsection to require “A description of any common plant included in the construction project.” Public Counsel asks what is a common electric transmission line?

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt Dogwood’s proposed simplification of the requirement.

COMMENT #49: Dogwood suggests application of subsection (6)(F) not be limited to electric transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt Dogwood’s proposed simplification of the requirement.

COMMENT #50: Subsection (6)(G) directs non-incumbent electric providers that are applying for a CCN to submit an overview of their plans for operating and maintaining the proposed electric transmission line. Dogwood and Division of Energy express concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Public Counsel suggests the requirement of the subsection should not be limited to non-incumbent electric providers, however that phrase is defined. Dogwood also suggests application of the subsection not be limited to electric transmission lines.

RESPONSE AND EXPLANATION OF CHANGE: The application of the subsection will be expanded by changing “electric transmission line” to “asset.” The phrase “non-incumbent electric provider” has been removed from the rule.

COMMENT #51: Subsection (6)(H) directs non-incumbent electric providers that are applying for a CCN for an electric transmission line to submit an overview of their plans for restoration of service after an unplanned outage. Dogwood and Division of Energy express concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Dogwood also suggests application of the subsection not be limited to electric transmission lines. Public Counsel suggests the requirement of the subsection should not be limited to non-incumbent electric providers, however that phrase is defined.

RESPONSE AND EXPLANATION OF CHANGE: The application of the subsection will be expanded by changing “electric transmission line” to “asset.” The phrase “non-incumbent electric provider” has been removed from the rule. This subsection is (5)(I) in the final rule.

COMMENT #52: Subsection (6)(I) would require an applicant for a CCN for an electric transmission line to submit evidence demonstrating that it utilized or will utilize a competitive bidding process for entering into contracts related to the construction project. Dogwood expresses concern about the phrase “non-incumbent electric provider,” suggesting it could be better defined. Dogwood also suggests application of the subsection not be limited to electric transmission lines. Empire suggests this requirement should be incorporated into the requirements of subsection (2)(E), Ameren Missouri and KCP&L/GMO oppose the bidding requirement and argue the entire subsection should be removed from the rule.

RESPONSE AND EXPLANATION OF CHANGE: The subsection requiring competitive bidding has been removed from the rule. New subsection (5)(H) relates to competitive bidding, but requires only an overview of whether and how such bidding was used in the planning of the project.
COMMENT #53: Subsection (6)(J) and paragraphs (6)(J)1.–4. describe the notice that an applicant for a CCN to acquire or construct an electric transmission line is to provide to residents along the route of the transmission line. The Division of Energy indicated its support for the rule as proposed. Dogwood generally supports the notice requirement, but proposes modified language that would expand the notice requirement to include natural gas transmission pipelines as well as electric transmission lines. Ameren Missouri opposes that expansion of the rule. Public Counsel would also expand the rule to require notice regarding natural gas transmission lines, and would add a notice requirement when a new generating plant or associated substation is proposed. Ameren Missouri supports the concept behind the notice requirement, but would modify the rule’s language to make it clear that the rule does not give landowners an enforceable right to receive actual notice.

RESPONSE AND EXPLANATION OF CHANGE: The commission believes the notice requirements are appropriate as proposed and will not modify the rule except to clarify that it applies to “transmission” substation locations as well as electric transmission line routes.

COMMENT #54: KCP&L/GMO suggests the reference to “notice” in subsection (6)(J) and in paragraph (6)(J)1. be expanded to “notice of the application.”

RESPONSE AND EXPLANATION OF CHANGE: The commission believes the notice requirements are appropriate as proposed and will not modify the rule except to clarify that it applies to “transmission” substation locations as well as electric transmission line routes.

COMMENT #55: KCP&L/GMO and Dogwood propose to change “any letter” in paragraph (6)(J)2. to “notice” or “notice of the application.”

RESPONSE AND EXPLANATION OF CHANGE: The commission believes the notice requirements are appropriate as proposed, but the term “letter” in this paragraph is potentially confusing and will be changed to “notice of the application.”

COMMENT #56: KCP&L/GMO suggests paragraph (6)(J)2. be revised to change all references to “utility” to “applicant.”

RESPONSE: The proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #57: KCP&L/GMO suggests all references to “persons” in paragraphs (6)(J)3. and 4. be changed to “landowners.”

RESPONSE: The proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #58: KCP&L/GMO suggests paragraph (6)(J)3. be clarified to distinguish the public meeting required by the rule from a public hearing conducted by the commission.

RESPONSE: The proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #59: Wind on the Wires proposes the commission create a new section that would explicitly afford an applicant the ability to request expedited treatment for its application.

RESPONSE: An applicant may request expedited treatment under the commission’s general rules of procedure and it is not necessary to include a reminder of such procedures in this rule. The commission will make no changes in response to this comment.

COMMENT #60: The Division of Energy and Public Counsel pointed out that the proposed rule should be revised to incorporate the provisions of SB-564, which will go into effect before the rule will become effective.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (1)(D), the provision that excludes certain assets from the definition of construction for which a CCN is required, has been modified to incorporate the provisions of SB-564, including the exemption of projects with a capacity of one (1) megawatt or less and the construction of utility-owned solar facilities.

COMMENT #61: Ameren Missouri suggests a new section to require the applicant to file additional information where a different legal entity will own the asset during construction before transferring it to the utility when construction is completed.

RESPONSE: The proposed change is unnecessary. The commission will make no change in response to this comment.

COMMENT #62: Ameren Missouri expressed concern that what it described as an expansion of the authority under the statute to require a CCN where none has been required in the past would call into question the legitimacy of existing electric assets that do not have a CCN.

RESPONSE AND EXPLANATION OF CHANGE: The commission does not intend for this rule to impose any additional requirements on existing assets. A statement to that effect has been added to section (7).

COMMENT #63: Ameren Missouri challenges the accuracy of the private cost determination that the proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

RESPONSE AND EXPLANATION OF CHANGE: The commission has made many modifications in this rule that will have the effect of reducing the regulatory costs that would have been imposed by the rule as proposed. The commission has reassessed the cost of the final rule and a revised private cost fiscal note has been prepared and is attached to this final order of rulemaking.

4 CSR 240-20.045 Electric Utility Applications for Certificates of Convenience and Necessity

PURPOSE: This proposed rule outlines the requirements for applications to the commission, pursuant to section 393.170.1 and 393.170.2, RSMo, requesting that the commission grant a certificate of convenience and necessity to an electric utility for a service area or to operate or construct an electric generating plant, an electric transmission line, or a gas transmission line that facilitates the operation of an electric generating plant.

(1) Definitions. As used in this rule, the following terms mean:

(A) Asset means:

1. An electric generating plant, or a gas transmission line that facilitates the operation of an electric generating plant, that is expected to serve Missouri customers and be included in the rate base used to set their retail rates regardless of whether the item(s) to be constructed or operated is located inside or outside the electric utility’s certificated service area or inside or outside Missouri; or

2. Transmission and distribution plant located outside the electric utility’s service territory, but within Missouri;

(B) Construction means:

1. Construction of new asset(s); or

2. The improvement, retrofit, or rebuild of an asset that will result in a ten percent (10%) increase in rate base as established in the electric utility’s most recent rate case;

(C) Construction does not include:

1. The construction of an energy generation unit that has a capacity of one (1) megawatt or less; or

2. The construction of utility-owned solar facilities as required under section 393.1665, RSMo;

3. Periodic, routine, or preventative maintenance; or

4. Replacement of equipment or devices with the same or substantially similar items due to failure or near term projected failure as long as the replacements are intended to restore the asset to an operational state at or near a recently rated capacity level.

(2) Certificate of convenience and necessity.
(A) An electric utility must obtain a certificate of convenience and necessity prior to—
1. Providing electric service to retail customers in a service area pursuant to section 393.170.2, RSMo;
2. Construction of an asset pursuant to section 393.170.1, RSMo; or
3. Operation of an asset pursuant to section 393.170.2, RSMo.

(B) The commission may, by its order, impose upon the issuance of a certificate of convenience and necessity such condition or conditions as it may deem reasonable and necessary.

(C) In determining whether to grant a certificate of convenience and necessity, the commission may, by its order, make a determination on the prudence of the decision to operate or construct an asset subject to the commission’s subsequent review of costs and applicable timelines.

(D) An electric utility must exercise the authority granted within two (2) years from the grant thereof.

(3) In addition to the general requirements of 4 CSR 240-2.060(1), the following additional general requirements apply to all applications for a certificate of convenience and necessity, pursuant to sections 393.170.1 and .2, RSMo:

(A) The application shall include facts showing that granting the application is necessary or convenient for the public service;

(B) If an asset to be operated or constructed is outside Missouri, the application shall include plans for allocating costs, other than regional transmission organization/independent system operator cost sharing, to the applicable jurisdiction; and

(C) If any of the items required under this rule are unavailable at the time the application is filed, the unavailable items may be filed prior to the granting of authority by the commission, or the commission may grant the certificate subject to the condition that the unavailable items be filed before authority under the certificate is exercised.

(4) If the application is for authorization to provide electric service to retail customers in a service area for the electric utility under section 393.170.2, RSMo, the application shall also include:

(A) A list of those entities providing regulated or nonregulated retail electric service in all or any part of the service area proposed, including a map that identifies where each entity is providing retail electric service within the area proposed;

(B) If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners, in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

(C) The legal description of the service area to be certified;

(D) A plat of the proposed service area drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the state’s Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

(E) A feasibility study containing plans and specifications for the utility system, plans for financing, proposed rates and charges, and an estimate of the number of customers, revenues, and expenses during the first three (3) years of operations.

(5) If the application is for authorization to operate assets under section 393.170.2, RSMo, the application shall also include:

(A) A description of the asset(s) to be operated;

(B) The value of the asset(s) to be operated;

(C) The purchase price and plans for financing the operation; and

(D) Plans and specifications for the asset, including as-built drawings.

(6) If the application is for authorization to construct an asset under section 393.170.1, RSMo, the application shall also include:

(A) A description of the proposed route or site of construction;

(B) A list of all electric, gas, and telephone conduit, wires, cables, and lines of regulated and nonregulated utilities, railroad tracks, and each underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross;

(C) A description of the plans, specifications, and estimated costs for the complete scope of the construction project that also clearly identifies what will be the operational features of the asset once it is fully operational and used for service;

(D) The projected beginning of construction date and the anticipated fully operational and used for service date of the asset;

(E) A description of any common plant to be included in the construction project;

(F) Plans for financing the construction of the asset;

(G) A description of how the proposed asset relates to the electric utility’s adopted preferred plan under 4 CSR 240-22;

(H) An overview of the electric utility’s plan for this project regarding competitive bidding, although competitive bidding is not required, for the design, engineering, procurement, construction management, and construction of the asset;

(I) An overview of plans for operating and maintaining an asset;

(J) An overview of plans for restoration of safe and adequate service after significant, unplanned/forced outages of an asset; and

(K) An affidavit or other verified certification of compliance with the following notice requirements to landowners directly affected by electric transmission line routes or transmission substation locations proposed by the application. The proof of compliance shall include a list of all directly affected landowners to whom notice was sent.

1. Applicant shall provide notice of its application to the owners of land, or their designee, as stated in the records of the county assessor’s office, on a date not more than sixty (60) days prior to the date the notice is sent, who would be directly affected by the requested certificate, including the preferred route or location, as applicable, and any known alternative route or location of the proposed facilities. For purposes of this notice, land is directly affected if a permanent easement or other permanent property interest would be obtained over all or any portion of the land or if the land contains a habitable structure that would be within three hundred (300) feet of the centerline of an electric transmission line.

2. Any letter sent by applicant as notice of the application shall be on its representative’s letterhead or on the letterhead of the utility, and it shall clearly set forth—

A. The identity, address, and telephone number of the utility representative;

B. The identity of the utility attempting to acquire the certificate;

C. The general purpose of the proposed project;

D. The type of facility to be constructed; and

E. The contact information of the Public Service Commission and Office of the Public Counsel.

3. If twenty-five (25) or more persons in a county would be entitled to receive notice of the application, applicant shall hold at least one (1) public meeting in that county. The meeting shall be held in a building open to the public and sufficient in size to accommodate the number of persons in the county entitled to receive notice of the application. Additionally—

A. All persons entitled to notice of the application shall be afforded a reasonable amount of time to pose questions or to state their concerns;

B. To the extent reasonably practicable, the public meeting shall be held at a time that allows affected landowners an opportunity to attend; and

C. Notice of the public meeting shall be sent to any persons entitled to receive notice of the application.

4. If applicant, after filing proof of compliance, becomes aware of a person entitled to receive notice of the application to whom applicant did not send such notice, applicant shall, within twenty (20) days, provide notice to that person by certified mail, return receipt requested, containing all the required information. Applicant shall also file a supplemental proof of compliance regarding the additional notice.
(7) Provisions of this rule do not create any new requirements for or affect assets, improvements, rebuilds, or retrofits already in rate base as of the effective date of this rule. Provisions of this rule may be waived by the commission for good cause shown.

**REVISED PRIVATE COST:** The cost to the department may range from zero to one hundred thousand dollars ($0–$100,000) versus the less than five hundred dollars ($500), which was submitted in the original estimate.
FISCAL NOTE
PRIVATE COST

I. Department Title: Department of Economic Development
Division Title: 240-Public Service Commission
Chapter Title: Chapter 20 – Electric Utilities

<table>
<thead>
<tr>
<th>Rule Number and Title:</th>
<th>4 CSR 240-20.045 Electric Utility Applications for Certificates of Convenience and Necessity</th>
</tr>
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<td>Type of Rulemaking:</td>
<td>Final Order of Rulemaking</td>
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II. SUMMARY OF FISCAL IMPACT

<table>
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<tr>
<th>Estimate of the number of entities by class which would likely be affected by the adoption of the rule:</th>
<th>Classification by types of the business entities which would likely be affected:</th>
<th>Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:</th>
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<td>4</td>
<td>Investor Owned Electric Utilities</td>
<td>$0-$100,000</td>
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III. WORKSHEET

Two affiliated investor-owned electric utilities (IOUs) indicated the requirement to obtain a CCN for an asset located outside Missouri would cause them to incur significant litigation expense. The fiscal impact of this provision is estimated between $0 and $100,000. See Section IV for assumptions.

They also indicated the requirement to get a CCN for “the improvement, retrofit or rebuild” of an asset will cause them to incur significant litigation expense. This requirement was modified by adding a limitation that a CCN only needs to be obtained when the improvement, retrofit or rebuild will result in a 10 percent increase in rate base as established in the electric utility’s most recent rate case. With this limitation, only one project over the past several years would have required a CCN. Therefore, with the limitation, the fiscal impact of this provision is deemed minimal.

IV. ASSUMPTIONS

The estimated life of the rule is 3 years.

Based on the number of instances over the past 3 years when a CCN would have been required had the provisions of this final order of rulemaking been effective at the time of the transaction, it is assumed that one new CCN, not already required by Commission rule provisions, will be required during the estimated life of the rule. Since the extent and the nature of litigation associated with that case is unknown until it is contested, it was assumed that the CCN case would result in an additional cost of $0 to $100,000 as a result of the final order of rulemaking.
Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 120—New Manufactured Homes

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed rescission as follows:

4 CSR 240-120.070 Manufacturers and Dealers Reports is withdrawn.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1010–1011). This proposed rescission is withdrawn.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that after further review it recommends the rule not be rescinded because part of the rule is required to comply with certain federal requirements for the commission to retain its State Administrative Agency status.
RESPONSE: The commission will withdraw the proposed rescission so the rule will remain in effect.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 120—New Manufactured Homes

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-120.080 Commission Reports is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1011). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule restates a federal requirement imposed on the commission. It does not need to be included in the rule and staff supports its rescission.
RESPONSE: The commission will rescind the rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.010 Definitions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1011). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.
RESPONSE: The commission will rescind the rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.020 Administration and Enforcement is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1011–1012). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.
RESPONSE: The commission will rescind the rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under
section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.030 Seals is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1012). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.
RESPONSE: The commission will rescind the rule.

4 CSR 240-121.050 Inspection of Preowned Manufactured Homes Rented, Leased or Sold or Offered for Rent, Lease or Sale by Persons Other Than Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1012–1013). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.
RESPONSE: The commission will rescind the rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 121—Pre-Owned Manufactured Homes

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.060 Complaints and Review of Director Actions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1013). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.
RESPONSE: The commission will rescind the rule.

4 CSR 240-121.170 Criteria for Good Moral Character for Registration of Manufactured Home Dealers is rescinded.
A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1013–1014). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that this rule is no longer necessary and supports its rescission.
RESPONSE: The commission will rescind the rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 121—Pre-Owned Manufactured Homes

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission rescinds a rule as follows:

4 CSR 240-121.180 Monthly Report Requirement for Registered Manufactured Home Dealers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1014). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended June 14, 2018, and the commission held a public hearing on the proposed rescission on June 19, 2018. The commission received timely written comments from the staff of the commission. Mark Johnson, representing the commission’s staff, and Natelle Dietrich, on behalf of staff, appeared at the hearing and offered comments.

COMMENT #1: Staff explained that after further review it finds that only the definitions portion of the rule, found in section (1), duplicates the requirements of federal regulations. Staff suggests it might be appropriate to revisit this rule in a future rulemaking to amend it, but recommends it not be rescinded at this time.
RESPONSE: The commission agrees it would not be appropriate to rescind only the definitions section of the rule while leaving the substantive portions in effect. Instead, the commission will withdraw the proposed rescission.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 124—Manufactured Home Tie-Down Systems

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission withdraws a proposed rescission as follows:

4 CSR 240-124.045 Anchoring Standards is withdrawn.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on May 15, 2018 (43 MoReg 1014). This proposed rescission is withdrawn.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 1—Organization

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under sections 213.020 and 536.023, RSMo 2016, the commission amends a rule as follows:

8 CSR 60-1.010 General Organization is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1142–1143). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.
Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 2—Procedural Regulations

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under sections 213.030, 213.077, and 213.085, RSMo 2016, and sections 213.075 and 213.111, RSMo Supp. 2017, the commission amends a rule as follows:

8 CSR 60-2.025 Complaint, Investigation, and Conciliation Processes is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1144). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 2—Procedural Regulations

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, and section 213.075, RSMo Supp. 2017, the commission amends a rule as follows:

8 CSR 60-2.045 Parties at Hearing is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1144). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 3—Guidelines and Interpretations of Employment Anti-Discrimination Laws

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, the commission amends a rule as follows:

8 CSR 60-3.010 Preservation of Records and Posting of Posters and Interpretations is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1145–1146). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 3—Guidelines and Interpretations of Employment Anti-Discrimination Laws

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, the commission rescinds a rule as follows:

8 CSR 60-3.030 Employment Testing is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on June 1, 2018 (43 MoReg 1145–1146). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.
A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on June 1, 2018 (43 MoReg 1146). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 3—Guidelines and Interpretations of Employment Anti-Discrimination Laws

ORDER OF RULEMAKING
By the authority vested in the Missouri Commission on Human Rights under section 213.030, RSMo 2016, the commission amends a rule as follows:

8 CSR 60-3.060 Handicap Discrimination in Employment is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1146–1147). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 19—Electronics Scrap Management

ORDER OF RULEMAKING
By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.1101, RSMo 2016, the commission hereby amends a rule as follows:

10 CSR 25-19.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on May 1, 2018 (43 MoReg 856–859). One (1) change was made to the text of this proposed amendment; those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 20, 2018, and the public comment period ended June 27, 2018. At the public hearing the Department of Natural Resources testified that the proposed amendment would remove portions of the rule that are outdated, no longer needed, or that duplicate statutory language. There was no other testimony at the hearing. The department received one (1) comment during the public comment period.

COMMENT #1: A department employee commented that the remaining portion of the rule uses the term “covered equipment” and the definition for that term would be removed with this proposed amendment.

RESPONSE AND EXPLANATION OF CHANGE: Because the statute defines “computer materials” and “equipment” and provides exceptions to coverage, the commission does not believe regulatory definitions are necessary and no change was made to address this comment.

After the public comment period, staff learned that both standards referenced in the current rule are outdated, and have been absorbed into a newer standard published by Sustainable Electronics Recycling International (SERI). For this reason, the commission will adopt changes to the proposal to eliminate the outdated references and to update and add the current SERI standards in the rule.

10 CSR 25-19.010 Electronics Scrap Management

(1) The department adopts, as standards for recycling or reuse of covered equipment under this rule, the standards in R2:2013, “The Responsible Recycling (“R2”) Standard for Electronics Recyclers,” dated September 1, 2014; the supporting document R2:2013 “R2 Code of Practices: R2 Certification Process Requirements” dated July 1, 2013, and the R2:2013 “Formal Interpretation #1.0” with an effective date of February 1, 2017, all issued by the Sustainable Electronics Recycling International (SERI) Board of Directors, PO Box 721, Hastings, MN, 55033. Each of these standards is hereby incorporated by reference without any later amendments or additions. The adopted standards apply to covered equipment used by an individual primarily for personal or home business use and returned to the manufacturer by a consumer or collected by a manufacturer in this state and do not impose any obligation on an owner or operator of a solid waste facility.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 3—Administrative Penalties

ORDER OF RULEMAKING
By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-3.010 Administrative Penalty Assessment is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on May 1, 2018 (43 MoReg 883–884). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 6—Permits

ORDER OF RULEMAKING
By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-6.020 Closure Plan and Inspection-Maintenance Plan—General Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on May 1, 2018 (43 MoReg 884–885). No changes have been made in the text of the
proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 8—Technical Guidelines

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-8.010 General is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on May 1, 2018 (43 MoReg 885). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 8—Technical Guidelines

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-8.020 Metallic Minerals Waste Management Structures is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on May 1, 2018 (43 MoReg 885–886). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 45—Metallic Minerals Waste Management
Chapter 8—Technical Guidelines

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Natural Resources under section 444.380, RSMo 2016, the director amends a rule as follows:

10 CSR 45-8.030 Reclamation-Reuse is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on May 1, 2018 (43 MoReg 886–887). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 3—Historic Preservation

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-3.010 Definitions—Revolving Fund is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on May 1, 2018 (43 MoReg 887). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on June 20, 2018 and the public comment period ended on June 27, 2018. At the public hearing, the Department’s State Historic Preservation Office staff explained the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 3—Historic Preservation

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-3.020 Acquisition of Historic Property is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on May 1, 2018 (43 MoReg 887–888). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on June 20, 2018 and the public comment period ended on June 27, 2018. At the public hearing, the Department’s State Historic Preservation Office staff explained the proposed amendment. No comments were received.
Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-3.030 Procedures for Making Loans is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on May 1, 2018 (43 MoReg 888). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 30—Child Support Enforcement
Chapter 2—Performance Measures

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Family Support Division under sections 454.500 and 660.017, RSMo 2016, the division rescinds a rule as follows:

13 CSR 30-2.030 Standard Procedures for Handling Cash Receipts in Circuit Clerks’ Offices Under Contract With the Missouri Division of Child Support Enforcement for the Provision of IV-D Services is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on June 1, 2018 (43 MoReg 1168). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 7—Family Healthcare

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Family Support Division under sections 207.022, 208.991, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 40-7.015 Application Procedure for Family MO HealthNet Programs and the Children’s Health Insurance Program (CHIP) is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1169). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division under sections 208.153, 208.201, and 660.017, RSMo 2016, the division rescinds a rule as follows:

13 CSR 70-3.040 Duty of Medicaid Participating Hospitals and Other Vendors to Assist in Recovering Third-Party Payments is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the Missouri Register on June 1, 2018 (43 MoReg 1169–1170). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.153, 208.201, and 660.017, RSMo 2016, and section 208.152, RSMo Supp. 2018, the division amends a rule as follows:

13 CSR 70-20.045 Thirty-One Day Supply Maximum Restriction on Pharmacy Services Reimbursed by the MO HealthNet Division is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1169). No changes have been made in the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.
SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.153, 208.201, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 70-20.050 Return of Drugs is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1176–1177). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.021, 219.036, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.050 Transfers Between DYS Residential and/or Community Based Programs is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1178–1179). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.036 and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.030 Special or Unique Service Needs is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1177). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.036 and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.040 Classification Criteria for Placement into Division of Youth Services (DYS) Programs is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the Missouri Register on June 1, 2018 (43 MoReg 1177–1178). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.036, 219.051, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.100 Grievance Procedures for Committed Youth In Residential Facilities is amended.
A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1179–1180). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES**
Division 110—Division of Youth Services
Chapter 2—Classification Services and Residential Care

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, Division of Youth Services, under sections 219.036 and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 110-2.130 Release of Youth from DYS Facilities

is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2018 (43 MoReg 1180–1181). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.