

Volume 34, Number 14
Pages 1455-1530
July 15, 2009

SALUS POPULI SUPREMA LEX ESTO

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



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

The *Missouri Register* is an official publication of the state of Missouri, under the authority granted to the secretary of state by sections 536.015, RSMo Supp. 2008 and 536.033, RSMo 2000. Reproduction of rules is allowed; however, no reproduction shall bear the name *Missouri Register* or "official" without the express permission of the secretary of state.

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

ROBIN CARNAHAN

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

DIRECTOR

WAYLENE W. HILES

•

EDITORS

CURTIS W. TREAT

SALLY L. REID

ASSOCIATE EDITOR

SARAH JORGENSEN

•

PUBLICATION TECHNICIAN

JACQUELINE D. WHITE

•

ADMINISTRATIVE ASSISTANT

AMBER J. LYNN

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO
Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER

Office of the Secretary of State

Administrative Rules Division

PO Box 1767

Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is <http://www.sos.mo.gov/adrules/moreg/moreg.asp> and the CSR is <http://www.sos.mo.gov/adrules/csr/csr.asp>. These websites contain rulemakings and regulations as they appear in the Registers and CSR. These websites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo Supp. 2008. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications. The Administrative Rules Division may be contacted by email at rules@sos.mo.gov.

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



IN THIS ISSUE:

EMERGENCY RULES

Department of Social Services
 MO HealthNet Division1459

Department of Insurance, Financial Institutions and Professional Registration
 Board of Cosmetology and Barber Examiners1459

PROPOSED RULES

Department of Agriculture
 Animal Health1461

Department of Higher Education
 Commissioner of Higher Education1481

Department of Transportation
 Missouri Highways and Transportation Commission1483

Elected Officials
 Secretary of State1488

ORDERS OF RULEMAKING

Department of Elementary and Secondary Education
 Teacher Quality and Urban Education1489

Department of Higher Education
 Commissioner of Higher Education1493

Department of Revenue
 Director of Revenue1493

Department of Social Services
 MO HealthNet Division1494

Elected Officials
 Attorney General1494

Department of Health and Senior Services
 Division of Community and Public Health1497
 Division of Regulation and Licensure1498
 Division of Maternal, Child and Family Health1504

DISSOLUTIONS1506

SOURCE GUIDES

RULE CHANGES SINCE UPDATE1509
EMERGENCY RULES IN EFFECT1517
EXECUTIVE ORDERS1518
REGISTER INDEX1521

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
March 2, 2009 March 16, 2009	April 1, 2009 April 15, 2009	April 30, 2009 April 30, 2009	May 30, 2009 May 30, 2009
April 1, 2009 April 15, 2009	May 1, 2009 May 15, 2009	May 31, 2009 May 31, 2009	June 30, 2009 June 30, 2009
May 1, 2009 May 15, 2009	June 1, 2009 June 15, 2009	June 30, 2009 June 30, 2009	July 30, 2009 July 30, 2009
June 1, 2009 June 15, 2009	July 1, 2009 July 15, 2009	July 31, 2009 July 31, 2009	August 30, 2009 August 30, 2009
July 1, 2009 July 15, 2009	August 3, 2009 August 17, 2009	August 31, 2009 August 31, 2009	September 30, 2009 September 30, 2009
August 3, 2009 August 17, 2009	September 1, 2009 September 15, 2009	September 30, 2009 September 30, 2009	October 30, 2009 October 30, 2009
September 1, 2009 September 15, 2009	October 1, 2009 October 15, 2009	October 31, 2009 October 31, 2009	November 30, 2009 November 30, 2009
October 1, 2009 October 15, 2009	November 2, 2009 November 16, 2009	November 30, 2009 November 30, 2009	December 30, 2009 December 30, 2009
November 2, 2009 November 16, 2009	December 1, 2009 December 15, 2009	December 31, 2009 December 31, 2009	January 30, 2010 January 30, 2010
December 1, 2009 December 15, 2009	January 4, 2010 January 18, 2010	January 29, 2010 January 29, 2010	February 28, 2010 February 28, 2010

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

Missouri Participating Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Documents Law (section 181.100, RSMo Supp. 2008), are available in the listed participating libraries, as selected by the Missouri State Library:

Jefferson County Library PO Box 1486, 3021 High Ridge High Ridge, MO 63049-1486 (314) 677-8689	Learning Resources Center Mineral Area College PO Box 1000 Park Hills, MO 63601-1000 (573) 431-4593	Hearnes Learning Resources Ctr. Missouri Western State University 4525 Downs Drive St. Joseph, MO 64507-2294 (816) 271-5802	Library Missouri University of Science and Technology 1870 Miner Circle Rolla, MO 65409-0060 (573) 341-4007
Jefferson College Library 1000 Viking Drive Hillsboro, MO 63050-2441 (314) 789-3951 ext. 160	Cape Girardeau Public Library 711 N. Clark Cape Girardeau, MO 63701-4400 (573) 334-5279	Library North Central Missouri College PO Box 111, 1301 Main Street Trenton, MO 64683-0107 (660) 359-3948 ext. 325	Lebanon-Laclede County Library 135 Harwood Ave. Lebanon, MO 65536-3017 (417) 532-2148
St. Louis Public Library 1301 Olive St. St. Louis, MO 63103-2389 (314) 539-0376	Kent Library Southeast Missouri State University One University Plaza Cape Girardeau, MO 63701-4799 (573) 651-2757	Spiva Library Missouri Southern State University 3950 East Newman Road Joplin, MO 64801-1595 (417) 625-9342	University Library Southwest Baptist University 1600 University Ave. Bolivar, MO 65613-2597 (417) 328-1631
St. Louis University Law Library 3700 Lindell Blvd. St. Louis, MO 63108-3478 (314) 977-2742	Riverside Regional Library PO Box 389, 204 South Union St. Jackson, MO 63755-0389 (573) 243-8141	Missouri State Library 600 West Main, PO Box 387 Jefferson City, MO 65102-0387 (573) 751-3615	Barry-Lawrence Regional Library 213 6th St. Monett, MO 65708-2147 (417) 235-6646
Eden/Webster Library Eden Theological Seminary/ Webster University 475 East Lockwood Ave. St. Louis, MO 63119-3192 (314) 961-2660 ext. 7812	Rutland Library Three Rivers Community College 2080 Three Rivers Blvd. Poplar Bluff, MO 63901-2393 (573) 840-9656	Missouri State Archives 600 West Main, PO Box 778 Jefferson City, MO 65102-0778 (573) 526-6711	Lyons Memorial Library College of the Ozarks General Delivery Point Lookout, MO 65726-9999 (417) 334-6411 ext. 3551
Thomas Jefferson Library University of Missouri-St. Louis 8001 Natural Bridge Road St. Louis, MO 63121-4499 (314) 516-5084	James C. Kirkpatrick Library University of Central Missouri 142 Edwards Library Warrensburg, MO 64093-5020 (660) 543-4149	Elmer Ellis Library University of Missouri-Columbia 106 B Ellis Library Columbia, MO 65211-5149 (573) 882-0748	Garnett Library Missouri State University—West Plains 304 Cleveland West Plains, MO 65775-3414 (417) 255-7945
Washington University Law Library Washington University Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6443	Kansas City Public Library 14 West 10th Street Kansas City, MO 64105 (816) 701-3546	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65211-7298 (573) 882-9369	Springfield-Greene County Library 4653 S. Campbell Springfield, MO 65801-0760 (417) 874-8110
St. Louis County Library 1640 S. Lindbergh Blvd. St. Louis, MO 63131-3598 (314) 994-3300 ext. 247	Law Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	Daniel Boone Regional Library PO Box 1267, 100 West Broadway Columbia, MO 65205-1267 (573) 443-3161 ext. 359	Meyer Library Missouri State University PO Box 175, 901 S. National Springfield, MO 65804-0095 (417) 836-4533
Library Maryville University 13550 Conway Road St. Louis, MO 63141-7232 (314) 529-9494	Miller Nichols Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	School of Law University of Missouri-Columbia 224 Hulston Hall Columbia, MO 65211-0001 (573) 882-1125	
Pickler Memorial Library Truman State University 100 E. Normal Kirksville, MO 63501-4221 (660) 785-7416	B.D. Owens Library Northwest Missouri State University 800 University Drive Maryville, MO 64468-6001 (660) 562-1841	Smiley Memorial Library Central Methodist University 411 Central Methodist Square Fayette, MO 65248-1198 (660) 248-6279	
	St. Joseph Public Library 927 Felix Street St. Joseph, MO 64501-2799 (816) 232-8151		

HOW TO CITE RULES AND RSMo

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

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

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

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

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

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

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

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

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

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program**

EMERGENCY AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is amending section (16).

PURPOSE: This amendment will revise the State Fiscal Year (SFY) 2009 Federal Reimbursement Allowance (FRA) assessment to five and forty hundredths percent (5.40%) of each hospital's inpatient and outpatient adjusted net revenues as determined from its base year cost report.

EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide health care to individuals eligible for the MO HealthNet program and for the uninsured. This emergency amendment revises the FRA assessment rate for State Fiscal Year (SFY) 2009. This emergency amendment is necessary to generate state matching funds to pay hospitals additional disproportionate share hospital payments (DSH) and distribute payments up to the Medicare upper payment limit (UPL), as defined by the Medicaid State Plan. The DSH federal allotment was increased by the federal government to recognize a four percent (4%) increase in the consumer price index (CPI). The upper payment calculation is defined

in the Medicaid State Plan and allows the state to claim federal participation for the amount Medicaid would pay under Medicare payment principles. The UPL is calculated using Medicare data and Medicaid Management Information System (MMIS) claims information that is not available until the last half of the fiscal year. The current economic crisis has resulted in hospitals serving an unprecedented number of uninsured. These payments will help ensure that hospitals can continue to provide care to MO HealthNet participants and indigent patients. The MO HealthNet Division also finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on Missouri hospitals that serve almost eight hundred fifty thousand (850,000) MO HealthNet participants plus the uninsured. This financial strain, in turn, will result in an adverse impact on the health and welfare of MO HealthNet participants and uninsured individuals in need of medical treatment. The FRA raises approximately \$845,484,324 annually; this emergency amendment results in an additional FRA assessment of \$23,585,027 which will result in additional payments of \$58,452,007 to hospitals. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the *Missouri* and *United States Constitutions*. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed June 9, 2009, effective June 22, 2009, and expires June 30, 2009.

(16) Federal Reimbursement Allowance (FRA) for State Fiscal Year (SFY) 2009. The FRA assessment for SFY 2009 shall be determined at the rate of five and [twenty-five] forty hundredths percent (5.[25]40%) of each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues from the hospital's 2006 Medicare/Medicaid cost report. The FRA assessment rate of 5.[25]40% will be applied individually to the hospital's inpatient adjusted net revenues and outpatient adjusted net revenues. The hospital's total FRA assessment for SFY 2009 is the sum of the assessment determined from its inpatient adjusted net revenue plus the assessment determined for its outpatient adjusted net revenue.

AUTHORITY: section 208.201, RSMo Supp. [2007] 2008 and sections 208.453 and 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed June 9, 2009, effective June 22, 2009, expires June 30, 2009.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2085—Board of Cosmetology and Barber
Examiners
Chapter 3—License Fees**

EMERGENCY AMENDMENT

20 CSR 2085-3.010 Fees. The board is proposing to amend subparagraph (1)(D)5.A. and paragraphs (1)(F)5., (2)(E)5., (3)(C)5., (3)(D)4., and (3)(D)5.

PURPOSE: The board is statutorily obligated to enforce and administer the provisions of sections 328.010–328.160, RSMo. Pursuant to section 329.015, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 328.010–328.160, RSMo, and

sections 329.010–329.265, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 328.010–328.160, RSMo, and sections 329.010–329.265, RSMo. Therefore, the board is proposing to decrease the renewal fees for crossover operators and barber establishments, decrease the barber, cosmetologist, and crossover inactive license fees, and decrease the reinstatement fee for crossover operators.

EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date of the rule by informing the public of a change in some fees required for the renewal of a license. The board is proposing to decrease the barber establishment renewal penalty fee from one hundred dollars (\$100) to eighty dollars (\$80), decrease the barber inactive license fee from thirty dollars (\$30) to twenty-five dollars (\$25), decrease the cosmetologist inactive license fee from thirty dollars (\$30) to twenty-five dollars (\$25), decrease the crossover inactive license fee from thirty dollars (\$30) to twenty-five dollars (\$25), decrease the crossover operator reinstatement fee from one hundred thirty dollars (\$130) to ninety dollars (\$90), and decrease the crossover operator renewal fee from one hundred dollars (\$100) to sixty dollars (\$60). This emergency amendment is necessary to allow the division to collect the decreased fees. The renewal information is being sent out on July 1, 2009, and the decreased fees need to be reflected in this information. Without this emergency amendment the decreased fee requirements will not be effective in time for the renewal notice and confusion will result in the renewal process.

The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the division has determined that the fee decrease is necessary for the 2009 renewal period to prevent funds from exceeding the maximum fund balance thereby resulting in a transfer from the fund to general revenue as set forth in sections 328.050 and 329.028, RSMo. Pursuant to section 324.001.1(10), RSMo, “A compelling governmental interest shall be deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the division of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue.” The board believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed June 8, 2009, becomes effective June 18, 2009, and expires February 25, 2010.

(1) The following barber related fees are hereby established by the State Board of Cosmetology and Barber Examiners for those fees, activities, or licenses governed by Chapter 328, RSMo.

(D) Barber Establishment

- 1. Certificate of Registration/License \$100
- 2. Change of Location
 - A. Full Service Barber Establishment \$100
 - B. Barber Chair/Individual Space Renter \$ 50
- 3. Change of Ownership \$ 50
- 4. Adding a Co-Owner \$ 50
- 5. License Renewal \$ 50
 - A. Penalty Fee after [March 30] **October 30** ~~\$/100~~**/80**
- 6. Delinquent Fee (Opening a barber establishment without registering before opening) \$100

(F) Miscellaneous Fees (Applicable to all licensees/registrants)

- 1. Certification/Affidavit of Licensure \$ 10
- 2. Certification of Training Hours, Examination Scores \$ 10
- 3. Duplicate License/Registration Fee \$ 10
- 4. Handling/Insufficient Funds Fee (Any uncollectible check or other financial instrument) \$ 25
- 5. Inactive License Fee ~~\$/30~~**/25**

- 6. Late Fee \$ 30
- 7. Name Search Fee
(As determined by the Missouri State Highway Patrol)

(2) The following cosmetology related fees are hereby established by the board for those fees, activities, or licenses governed by Chapter 329, RSMo.

(E) Miscellaneous Fees (Applicable to all licensees/registrants)

- 1. Certification/Affidavit of Licensure/Registration \$ 10
- 2. Certification of Training Hours, Examination Scores \$ 10
- 3. Duplicate License Fee \$ 10
- 4. Handling Fee (Any uncollectible check or other financial instrument) \$ 25
- 5. Inactive License Fee ~~\$/30~~**/25**
- 6. Late Fee \$ 30

(3) The following fees are hereby established by the board for crossover licensees under Chapter 328 or Chapter 329, RSMo.

(C) Miscellaneous Fees

- 1. Certification/Affidavit of Licensure \$ 10
- 2. Certification of Training Hours, Examination Scores \$ 10
- 3. Duplicate License Fee \$ 10
- 4. Handling Fee (Any uncollectible check or other financial instrument) \$ 25
- 5. Inactive License Fee ~~\$/30~~**/25**
- 6. Late Fee \$ 30
- 7. Name Search Fee
(As determined by the Missouri State Highway Patrol)

(D) Operators

- 1. Initial Application/License Fee \$100
- 2. Reciprocity Fee \$100
- 3. Exam Score Endorsement Fee \$100
- 4. Reinstatement Fee (Includes Late Fee) ~~\$/130~~**/90**
- 5. Renewal Fee ~~\$/100~~**/60**

AUTHORITY: section[s] 328.060.1, RSMo 2000 and section 329.025.1(4), RSMo Supp. [2006] 2008. Original rule filed June 27, 2007, effective Dec. 30, 2007. Emergency amendment filed June 8, 2009, effective June 18, 2009, expires Feb. 25, 2010.

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

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

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

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

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

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

Proposed Amendment Text Reminder:
Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for Movement of
Livestock, Poultry and Exotic Animals

PROPOSED AMENDMENT

2 CSR 30-2.010 Health Requirements Governing the Admission of Livestock, Poultry and Exotic Animals Entering Missouri. The director is amending sections (1) and (4)-(15).

PURPOSE: This amendment updates testing and identification requirements for livestock, poultry, and exotic animals entering Missouri.

(1) Certificate of Veterinary Inspection. The term Certificate of Veterinary Inspection means a legible record made on an official form of the state of origin, issued by an accredited licensed veteri-

narian[, which shows that the animal(s) listed meets the testing, vaccination, treatment and health requirements of the state of destination, and is valid for thirty (30) days]. The official Certificate of Veterinary Inspection shall state that the animal(s) are free of visible signs of contagious, infectious, or communicable disease and describe the animal(s) by species, breed, sex, and age. All animals will be individually identified as defined by Title 9, *Code of Federal Regulations*, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, or any other means of permanent identification approved by the state veterinarian and listed as well as all data for required tests and vaccinations, including date, results, and the name of the laboratory on the Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions.

(4) Cattle [and] (beef and dairy), Bison, and Exotic Bovids. All cattle, bison, or exotic bovids exchanged, bartered, gifted, leased, or sold entering Missouri must meet the following requirements:

(A) Baby Calves—calves under two (2) months of age not accompanied by their dam may be imported by resident buyers, directly to a Missouri farm, or move directly from farm of origin to a market and must meet the following requirements:

1. *[Interstate movement of calves under two (2) months of age to a Missouri livestock market is prohibited unless calves are accompanied by their dam] Entry permit must be obtained on all shipments of calves under two (2) months of age. All calves under two (2) months of age will be quarantined to the receiving farm for sixty (60) days; and*

2. *[Calves under two (2) months of age not accompanied by their dam may be imported by resident buyers only, directly to a Missouri farm, and must meet the following requirements:] All calves under two (2) months of age must be individually identified by an official eartag as defined by Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, or registration tattoo or any other means of permanent identification approved by the state veterinarian and listed on the Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions.*

[A. Entry permits must be obtained on all shipments of calves under two (2) months of age. All calves under two (2) months of age will be quarantined to the receiving farm for sixty (60) days; and

B. All calves under two (2) months of age must be individually identified by official eartag on the Certificate of Veterinary Inspection.]

(B) Brucellosis Requirements—All States—

1. A negative brucellosis test shall consist of one (1) of the following tests: Brucella Buffered Antigen (BBA) Card Test, Buffered Acidified Plate Antigen Presumptive Test, or other official tests approved by the state veterinarian. All tests, regardless of method, must be confirmed at a state- or federally-approved laboratory. Any discrepancies in test results must be reported to the state veterinarian's office;

2. Test-eligible animals include all sexually intact animals eighteen (18) months of age and over. *Finished-fed heifers under two (2) years of age are exempt from test if consigned directly to an approved slaughter establishment or to an approved market en route to an approved slaughter establishment];*

3. All **test-eligible** animals *[that are test-eligible]* must be individually identified by an official eartag^[1] as defined by Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, registration tattoo, *[registration brand]* or any other means of permanent identification approved by the state veterinarian and listed on the Certificate of Veterinary Inspection. **This rule does not incorporate any subsequent amendments or additions;** *[and]*

4. The state veterinarian may designate high incidence areas within certain states that must meet additional import restrictions and retest requirements^[2]; **and**

*[(C)]*5. Classification of states. Animals that originate directly from officially classified states must meet the requirements that follow:

[1.]A. Class free states—

[A.](I) Farm of origin animals may move to approved livestock markets and slaughter establishments accompanied by a waybill, bill of lading, or owner/shipper statement showing origin and destination;

[B.](II) Other animal movements must be accompanied by a Certificate of Veterinary Inspection, showing individual identification on all animals that are test-eligible; and

[C.](III) No brucellosis test or entry permit is required;

[2.]B. Class A states—

[A.](I) All animals must be accompanied by a Certificate of Veterinary Inspection showing individual identification on all animals that are test-eligible. A negative brucellosis test within thirty (30) days prior to shipment is required on all test-eligible animals. Farm of origin animals may move to an approved market or slaughter establishment accompanied by a waybill, bill of lading, or owner/shipper statement showing origin and destination;

[B.](II) Animals from certified brucellosis-free herds may enter on herd status without additional testing, provided the certified herd number and current test date is shown on the Certificate of Veterinary Inspection;

[C.](III) Rodeo bulls must have a negative brucellosis test within twelve (12) months prior to entering the state; and

[D.](IV) No entry permit is required.

[3.] Class B states—

A. All females four (4) months of age or over must be OCV for brucellosis;

B. All animals must be accompanied by a Certificate of Veterinary Inspection showing individual identification on all animals that are test-eligible. A negative brucellosis test within thirty (30) days prior to shipment is required on all test-eligible animals. Farm of origin animals may move to an approved market or slaughter establishment accompanied by a waybill, bill of lading or owner/shipper statement showing origin and destination;

C. Animals from certified brucellosis-free herds may enter on herd status without additional testing, provided the certified herd number and current test date is shown on the Certificate of Veterinary Inspection;

D. Entry permits are required on all test-eligible animals (except slaughter animals). All animals entering on permit will be quarantined and retested sixty to one hundred twenty (60–120) days after arrival. Animals from certified herds are exempt from the quarantine and retest requirement;

E. Animals other than farm of origin animals consigned to approved slaughter establishments must—

(I) Be tested negative for brucellosis within thirty (30) days prior to shipment and accompanied by a Certificate of Veterinary Inspection showing individual identification of animals;

(II) Be “S”- or “B”-branded and consigned to slaughter on a VS 1-27 shipping permit; or

(III) Move in an officially sealed vehicle accompanied by a VS 1-27 shipping permit; and

4. Class C states—

A. Entry permit is required on all animals entering Missouri from a Class C state;

B. Animals must be accompanied by a Certificate of Veterinary Inspection showing individual identification of all animals (except steers); and

C. Only the following classes of animals are eligible for entry into Missouri from a Class C state:

(I) Steers;

(II) Spayed heifers (“spade” brand and identification required);

(III) Animals from certified brucellosis-free herds may enter Missouri with a negative brucellosis test within thirty (30) days prior to shipment, in addition to the certified herd number and current herd test date shown on the Certificate of Veterinary Inspection. All test-eligible animals entering on permit will be quarantined and retested sixty to one hundred twenty (60–120) days after arrival; and

(IV) All other animals must be “S”- or “B”-branded, accompanied by a VS 1-27 shipping permit consigned to an approved slaughter establishment.]

[(D)](C) Tuberculosis.

1. *[All sexually intact dairy cattle six (6) months of age and older must be negative to an official tuberculosis test within sixty (60) days prior to entry, except dairy cattle that:] All test-eligible animals (those animals over two (2) months of age) must be officially individually identified and listed on a Certificate of Veterinary Inspection.*

[A. Move from an accredited tuberculosis-free herd; or

B. Move through one (1) market without a test directly to slaughter on a VS-127; or

C. Move directly from a herd that has had one (1) complete herd of origin test;]

2. *[All beef breeding cattle eight (8) months of age or over entering Missouri must meet one (1) of the following requirements:] Beef Cattle.*

A. *[Originate from a tuberculosis-free state;] All classes of beef cattle (including exotic bovids and bison) two (2) months of age and older, both breeding and feeding, entering Missouri from a state having a tuberculosis-free status may enter without additional testing requirements or entry permit.*

B. *[Originate from a tuberculosis-accredited free herd. The herd number and current herd test date must be shown on the Certificate of Veterinary Inspection;] All classes of beef cattle (including exotic bovids and bison) two (2) months of age and older, both breeding and feeding, entering Missouri from a state having a tuberculosis status less than free must meet the following requirements:*

(I) Must obtain an entry permit;

(II) Must have a negative tuberculosis test within sixty (60) days of shipment, test date must be listed on the Certificate of Veterinary Inspection; or

(III) Move from an accredited tuberculosis-free herd (herd number and current herd test date must be listed on the Certificate of Veterinary Inspection); or

(IV) Move directly from a herd of origin that has had one (1) complete negative herd test within one (1) year (date of test must be listed on the Certificate of Veterinary Inspection).

[C. Test negative within sixty (60) days of shipment;

D. Originate from a state having a reciprocal agreement with Missouri;

E All sexually intact cattle and bison, from any foreign country or part thereof with no recognized tuberculosis status comparable to the Uniform Methods and Rules standards of the U.S. Bovine Tuberculosis Eradication Program, imported for reasons other than immediate slaughter or feeding for slaughter must meet the following criteria:

(I) Obtain a permit issued by the Missouri Department of Agriculture prior to entry; and

(II) Be quarantined to the Missouri premises approved in the entry permit pending two (2) consecutive negative tuberculosis tests. The first test to be conducted not less than ninety (90) nor more than one hundred twenty (120) days after arrival and the second test to be not less than two hundred ten (210) days nor more than two hundred forty (240) days after arrival in Missouri; or

F. Importation of steers and spayed heifers from Mexico.

(I) Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have fully implemented the Control/Preparatory Phase of the Mexican Tuberculosis Eradication Program may enter Missouri provided they have been tested negative for tuberculosis in accordance with the Norma Oficial Mexicana (NOM) within sixty (60) days prior to entry into the United States and obtain an entry permit prior to entering Missouri.

(II) Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee to have fully implemented the Eradication Phase of the Mexican Tuberculosis Eradication Program by March 1, 1997, may enter Missouri provided they have been tested negative for tuberculosis in accordance with the Norma Oficial Mexicana (NOM) within sixty (60) days prior to entry into the United States. Steers and spayed heifers from these same Mexican states that originate from herds equal to U.S. Accredited TB-Free herds may enter Missouri without testing provided they are moved directly from the herd of origin across the border as a single group and not commingled with other cattle prior to arriving at the border and obtain an entry permit prior to entering Missouri.

(III) Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have achieved accredited-free status may enter Missouri without testing provided they are moved as a single group and not commingled with cattle of a different status prior to arriving to the border and obtain an entry permit prior to entering Missouri.

(IV) Holstein and Holstein-cross steers and spayed heifers from Mexico are prohibited from entering Missouri regardless of test history.

(V) Rodeo stock from Mexico must be tested negative for tuberculosis within sixty (60) days prior to their utilization as rodeo or roping stock under the supervision of a USDA/APHIS port veterinarian or by a U.S. accredited veterinarian, retested for tuberculosis every twelve (12) months thereafter, and obtain an entry permit prior to entering Missouri. No sexually intact rodeo stock from Mexico will be permitted into Missouri.]

3. [The state veterinarian may designate high incidence areas within certain states that must meet additional import restrictions and retest requirements.] Dairy Cattle.

A. All classes of dairy cattle two (2) months of age and older, both breeding and feeding, entering Missouri must meet the following requirements:

(I) Must obtain an entry permit;

(II) Must have a negative tuberculosis test within sixty (60) days of shipment, test date must be listed on the Certificate of Veterinary Inspection; or

(III) Move from an accredited tuberculosis-free herd (herd number and current herd test date must be listed on the Certificate of Veterinary Inspection); or

(IV) Move directly from a herd of origin that has had one (1) complete negative herd test within one (1) year (date of test must be listed on the Certificate of Veterinary Inspection).

4. Importation of steers and spayed heifers from Mexico.

A. Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have fully implemented the Control/Preparatory Phase of the Mexican Tuberculosis Eradication Program may enter Missouri provided they have been tested negative for tuberculosis in accordance with the Norma Oficial Mexicana (NOM) within sixty (60) days prior to entry into the United States and obtain an entry permit prior to entering Missouri.

B. Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee to have fully implemented the Eradication Phase of the Mexican Tuberculosis Eradication Program, may enter Missouri provided they have been tested negative for tuberculosis in accordance with the Norma Oficial Mexicana (NOM) within sixty (60) days prior to entry into the United States. Steers and spayed heifers from these same Mexican states that originate from herds equal to U.S. Accredited TB-Free herds may enter Missouri without testing provided they are moved directly from the herd of origin across the border as a single group and not commingled with other cattle prior to arriving at the border and obtain an entry permit prior to entering Missouri.

C. Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have achieved accredited-free status may enter Missouri without testing provided they are moved as a single group and not commingled with cattle of a different status prior to arriving to the border and obtain an entry permit prior to entering Missouri.

D. Holstein and Holstein-cross steers and spayed heifers from Mexico are prohibited from entering Missouri regardless of test history.

5. All rodeo stock, over twelve (12) months of age, must be tested negative for tuberculosis within sixty (60) days and obtain an entry permit prior to entering Missouri. No sexually intact rodeo stock from Mexico will be permitted into Missouri.

6. The state veterinarian may designate high incidence areas within certain states that must meet additional import restrictions and retest requirements.

(D) Trichomoniasis Requirements.

1. All breeding bulls (excluding exotic bovines) entering the state shall be—

A. Virgin bulls not more than twenty-four (24) months of age as determined by the presence of both permanent central incisor teeth in wear, or by breed registry papers; or

B. Be tested negative for Trichomoniasis with an official culture test or official Polymerase Chain Reaction (PCR) test by an approved diagnostic laboratory within thirty (30) days prior to entry into the state.

(I) Bulls shall be tested three (3) times not less than one week apart by an official culture test or one (1) time by official PCR test prior to entering Missouri.

(II) Bulls shall be identified by official identification at the time the initial test sample is collected.

(III) Bulls that have had contact with female cattle subsequent to testing must be retested prior to entry.

2. If the breeding bulls are virgin bulls, less than twenty-four (24) months of age, they shall be—

A. Individually identified by official identification; and

B. Be accompanied with a breeder's certification of virgin status signed by the breeder or his representative attesting that they are virgin bulls;

C. The official identification number shall be written on the breeder's certificate.

3. A Certificate of Veterinary Inspection listing official identification and test performed, date of test, results, and laboratory, if testing is required.

4. Bulls going directly to slaughter are exempt from Trichomoniasis testing.

(5) [Equidae] Swine.

(A) [All equidae (except nursing foals accompanied by their dams) must be accompanied by:] Swine are classified as the following:

1. [A current VS Form 10-11 (or later revision) or any officially recognized state EIA test chart showing the graphic description of all markings needed for identification; and] Commercial swine—swine that are continuously managed and have adequate facilities and practices to prevent exposures to feral swine;

2. [A Certificate of Veterinary Inspection showing:] Feral swine—any swine that are free roaming or Russian and Eurasian that are confined. This also includes javelinas and peccaries; and [A. Identification and description of each equidae listed on the health certificate; and

B. Negative test results of an official Equine Infectious Anemia (EIA) test, showing test date within twelve (12) months prior to entry, the name of the EIA accredited testing laboratory, and the test accession number assigned by the laboratory.]

3. Transitional swine—swine raised on dirt or that have reasonable opportunities to be exposed to feral swine.

(B) [A certified photocopy or certified facsimile of the VS Form 10-11 (or later revision) or any officially recognized state EIA test chart may be accepted for the purpose of travel or exhibition, but not for change of ownership (including leasing or gifting):] An entry permit and a Certificate of Veterinary Inspection is required on all classes of swine entering Missouri, except farm-of-origin swine consigned directly to an approved market or slaughter establishment.

[1. A certified photocopy is one obtained from the testing veterinarian or accredited testing laboratory bearing seal or signature in the lower right hand corner along with the date of certification in some ink color other than black.

2. A certified facsimile may be obtained only from the testing veterinarian or accredited testing laboratory and must bear the facsimile imprint of the originating facility clearly across the top of the page. It must also bear the date of the facsimile either along the top or in the lower right hand corner.]

(C) [For purpose of travel and exhibition, Missouri will accept six (6)-month passports from states with which there is a reciprocal agreement. These passports must meet the following criteria:] All commercial or transitional swine, individual and/or moving in a production system, entering Missouri, except farm-of-origin swine consigned to an approved market or slaughter establishment, must meet the following requirements:

1. [Proof of a negative EIA test within thirty (30) days of the date of application of the passport:] Must be veterinarian inspected, individually identified by an official eartag or group/lot identification number (GIN) as defined in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: <http://bookstore.gpo.gov>, ear notch, tattoo, or any other means

of permanent identification approved by the state veterinarian and listed on the Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions;

2. [Permanent identification for each horse by means of registered brand, legible tattoo or electronic identification (microchip); to be recorded on the passport and the VS Form 10-11 (or later revision) or any official recognized state EIA test chart, along with other identifying characteristics:] Originate from a validated swine brucellosis-free state or from a validated brucellosis-free herd (herd numbers and current herd test dates must be listed on the Certificate of Veterinary Inspection); and

3. [Inspection by an accredited veterinarian; and] Originate from a pseudorabies stage V state or from a qualified negative pseudorabies herd (herd numbers and current herd test dates must be listed on the Certificate of Veterinary Inspection).

[4. In the event of confirmed vesicular stomatitis in any of the states with which reciprocal agreements exist, use of the six (6)-month passports will be suspended by the state veterinarian of Missouri.]

(D) [Equidae entering Missouri moving directly from a farm-of-origin (defined as maintained on premises for at least one hundred twenty (120) days) to a licensed livestock market/sale may be accompanied by a waybill or owner/shipper statement showing origin and destination, in lieu of a Certificate of Veterinary Inspection.] Commercial farm-of-origin swine moving directly to an approved licensed slaughter market or slaughter establishment shall be identified by backtag, tattoo, or group lot number and may move with an owner/shipper statement in lieu of a Certificate of Veterinary Inspection.

1. Feeder pigs from commercial swine herds may move from farm-of-origin to a market to be inspected and individually identified and then moved from the market under quarantine to be finished for slaughter.

(E) [Alteration or substitution of any information on any VS Form 10-11, including certified photocopy and certified facsimile, or Certificate of Veterinary Inspection shall cause the document to be invalid and in violation of sections 267.010 to 267.730, RSMo, and may result in civil penalties not to exceed ten thousand dollars (\$10,000) per violation.]

[[F] Venezuelan Equine Encephalomyelitis (VEE) vaccination prior to entry on equidae originating from states in which VEE has been diagnosed within the preceding twelve (12) months. An entry permit is also required on equine from those states.] Movement Other than Commercial Swine.

1. Feral (including Eurasian and Russian) swine may move only from a farm-of-origin directly to an approved slaughter or to an approved slaughter-only market. This includes javelinas and peccaries.

2. Transitional swine may move to a licensed livestock market/sale or to slaughter.

A. Feeder pigs from transitional swine herds may move from farm-of-origin to a market to be inspected and individually identified and then moved from the market under quarantine to be finished for slaughter.

B. All other transitional swine must move from market directly to slaughter.

(6) [Swine] Equidae. This includes exotic equine, donkeys, asses, burros, and zebras.

(A) [An interstate permit and Certificate of Veterinary Inspection is required on all feeding, breeding and feral swine entering Missouri, except farm-of-origin swine consigned to an approved market or slaughter establishment.] All equidae (except nursing foals accompanied by their dams) bartered, donated, exchanged, gifted, leased, relinquished, sold, or otherwise involved in a change of ownership entering Missouri must be accompanied by—

1. A negative Equine Infectious Anemia (EIA) test within twelve (12) months prior to entry and documented on a VS Form 10-11 or any officially recognized federal/state EIA test chart showing the graphic description of all markings or imprinted photograph on any officially recognized federal/state EIA test chart needed for permanent identification.

A. For change of ownership (including leasing or gifting) an original VS Form 10-11 or any officially recognized federal/state EIA test chart is required.

B. No *equidae* will be sold EIA test pending through private treaty; and

[(B) Swine must be individually identified by eartag, ear notch, tattoo or other approved device except farm-of-origin swine consigned to an approved market or slaughter establishment or swine which move under the National Animal Identification system will be identified by premises number and date of group formation. (Swine for slaughter only may be identified by backtag, tattoo or other approved device.)]

2. A Certificate of Veterinary Inspection is required showing identification (registered legible tattoo, registered brand, microchip, or any other means of permanent identification approved by the state veterinarian) and description of each *equidae* listed on the Certificate of Veterinary Inspection; or photograph of each *equidae* imprinted on the VS Form 10-11 or any officially recognized federal/state EIA test chart and listed on the Certificate of Veterinary Inspection.

[(C)](B) [Swine not under quarantine must originate from herds that have had no clinical signs of pseudorabies for the past twelve (12) months. Swine not under quarantine that have been pseudorabies vaccinated are not allowed to enter Missouri, except by special permission of the state veterinarian.] For purpose of travel or exhibition, a certified photocopy or certified facsimile of the VS Form 10-11 or any officially recognized federal/state EIA test chart may be accepted.

1. A certified photocopy is one (1) obtained from the testing veterinarian or accredited testing laboratory bearing seal or signature in the lower right-hand corner along with the date of certification in some ink color other than black.

2. A certified facsimile may be obtained only from the testing veterinarian or accredited testing laboratory and must bear the facsimile imprint of the originating facility clearly across the top of the page. It must also bear the date of the facsimile either along the top or in the lower right-hand corner.

[(D)](C) [All breeding swine, regardless of age, must be tested negative for brucellosis and pseudorabies within thirty (30) days prior to entry or originate from a validated brucellosis-free herd or validated swine brucellosis-free state and a qualified negative pseudorabies herd (herd numbers and current herd test dates must be shown on the Certificate of Veterinary Inspection) or from a stage IV or V state.] For purpose of travel or exhibition, Missouri will accept six (6)-month passports from states with which there is a reciprocal agreement. These passports must meet the following criteria:

1. Proof of a negative EIA test within thirty (30) days of the date of application of the passport;

2. Permanent identification for each horse by means of registered brand, legible tattoo, imprinted photograph on any officially recognized federal/state EIA test chart, or electronic identification (microchip); to be recorded on the passport and the VS Form 10-11 or any official recognized federal/state EIA test chart with other identifying characteristics;

3. Inspection by an accredited veterinarian; and

4. In the event of confirmed vesicular stomatitis in any of the states with which reciprocal agreements exist, use of the six (6)-month passport will be suspended by the state veterinarian of Missouri.

(D) *Equidae* entering Missouri moving directly from a farm-of-origin (defined as maintained on premises for at least one hundred twenty (120) days) to a licensed Missouri livestock market/sale may be accompanied by a waybill or owner/shipper statement showing origin and destination, in lieu of a Certificate of Veterinary Inspection.

(E) Alteration or substitution of any information on the VS Form 10-11 or any officially recognized federal/state EIA test chart, including certified photocopy and certified facsimile, or Certificate of Veterinary Inspection shall cause the document to be invalid and in violation of sections 267.010 to 267.730, RSMo, and may result in civil penalties not to exceed ten thousand dollars (\$10,000) per violation.

(F) Venezuelan Equine Encephalomyelitis (VEE) vaccination is required three (3) weeks prior to entry on *equidae* originating from states in which VEE has been diagnosed within the preceding twelve (12) months. An entry permit is also required on equine from those states.

(G) *Equidae* positive for brucellosis may not enter Missouri.

(7) Sheep (including exotic sheep and antelope).

(A) All *[breeding]* sheep, including exotic sheep and antelope, regardless of age, and all sheep eighteen (18) months of age and over] bartered, exchanged, gifted, leased, or sold entering Missouri must be *[accompanied by a Certificate of Veterinary Inspection showing official individual identification (eartag, electronic implant or registration tattoo accompanied by registration paper). If electronic implants are used for identification, owner/manager must provide electronic implant reader]* free of symptoms of infectious or contagious diseases.

(B) *[Farm-of-origin sheep consigned directly to a licensed Missouri market/sale or a slaughter establishment must have official individual identification identifying them to the farm-of-origin but will not be required to have a Certificate of Veterinary Inspection.] All sheep (including exotic sheep and antelope), regardless of age or gender, must be individually identified by official scrapie identification as defined in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov> or any other means of identification approved by the state veterinarian identifying them to the flock-of-origin. This rule does not incorporate any subsequent amendments or additions.*

(C) *[Official identification is required on any live scrapie-positive, suspect, or high-risk animal of any age and of any sexually intact exposed animal of more than one (1) year of age or any sexually intact exposed animal of less than one (1) year of age upon change of ownership (except for exposed animals moving in slaughter channels at less than one (1) year of age), whether or not the animal resides in a source or infected flock.] Flock-of-origin sheep (including exotic sheep and antelope) consigned directly to a licensed Missouri market/sale or a slaughter establishment must have an individual official scrapie eartag identifying them to the flock-of-origin but will not be required to have a Certificate of Veterinary Inspection.*

(D) *[Sheep from a scabies-quarantined area must be dipped or treated by an officially approved method within ten (10) days prior to exhibition.] Scrapie-positive, suspects, or high-risk animals may enter Missouri for immediate slaughter only and with specific approval from the state veterinarian.*

(E) *[No tests are required on sheep entering Missouri.] Sheep (including exotic sheep and antelope) from a scabies-quarantined area must be dipped or treated by an officially approved method within ten (10) days prior to entering Missouri.*

(F) No tests or permit is required on sheep (including exotic sheep and antelope) entering Missouri.

(8) Goats (including exotic goats).

(A) All [sexually intact goats, except low risk commercial] goats (including exotic goats) [as defined in the Code of Federal Regulations, must be accompanied by a Certificate of Veterinary Inspection showing official individual identification (eartag, electronic implant or registration tattoo accompanied by registration paper), except:] regardless of age bartered, exchanged, gifted, leased, or sold entering Missouri must be free of symptoms of infectious or contagious diseases.

1. Farm-of-origin goats consigned directly to a licensed Missouri market/sale must have official individual identification but will not be required to have a Certificate of Veterinary Inspection; or

2. Farm-of-origin goats consigned directly to a slaughter establishment must have official individual identification but will not be required to have a Certificate of Veterinary Inspection.]

(B) [If electronic implants are used for identification, owner/manager must provide electronic implant reader.] All goats (including exotic goats), regardless of age or gender, must be individually identified by official scrapie identification as defined in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov> or any other means of identification approved by the state veterinarian identifying them to the herd-of-origin. This rule does not incorporate any subsequent amendments or additions.

(C) [Official identification is required on any live scrapie-positive, suspect, or high-risk animal of any age and of any sexually intact exposed animal of more than one (1) year of age or any sexually intact exposed animal of less than one (1) year of age upon change of ownership (except for exposed animals moving in slaughter channels at less than one (1) year of age), whether or not the animal resides in a source or infected flock.] Herd-of-origin goats (including exotic goats) consigned directly to a licensed Missouri market/sale or slaughter establishment must have official individual identification (official scrapie eartag or microchip) identifying them to the herd-of-origin but will not be required to have a Certificate of Veterinary Inspection.

(D) [No tests are required on goats entering Missouri.] Scrapie-positive, suspects, or high-risk animals may enter Missouri for immediate slaughter only and with specific approval from the state veterinarian.

(E) No tests or permit is required on goats (including exotic goats) entering Missouri.

(9) [Dogs and Cats] Poultry and Waterfowl.

(A) [Dogs and cats must be accompanied by a Certificate of Veterinary Inspection. Dogs and cats over four (4) months of age must be vaccinated for rabies by one (1) of the methods and within the time period published in the current Compendium of Animal Rabies Vaccines prepared by the National Association of State Public Health Veterinarians, Inc.] Live poultry (except those consigned directly to slaughter) shall be accompanied by a Certificate of Veterinary Inspection or a VS Form 9-3 (see 2 CSR 30-2.040). If a VS Form 9-3 is used, a signed and dated owner/shipper statement must be included stating that, to his/her best knowledge, the birds are healthy. Poultry known to be infected with pullorum or typhoid that are consigned directly to slaughter must be identified as such by the consignor.

(B) [These requirements do not apply to performing dogs or cats or those brought in for exhibition or breeding purposes if kept on a leash while in Missouri, exemption not to exceed thirty (30) days.] Live poultry entering Missouri must be tested negative for pullorum-typhoid within the past ninety (90) days or originate from a flock approved by the National Poultry Improvement Plan (NPIP) or an equivalent program which has been tested within the past twelve (12) months with no change of ownership.

(C) Hatching eggs must be accompanied by a Certificate of Veterinary Inspection certifying the eggs to be from pullorum-free flocks or by a VS Form 9-3.

(D) All poultry and hatching eggs imported into Missouri require an entry permit prior to shipment. Annual entry permits shall be issued by the department to participants in the NPIP or an equivalent program. Producers not approved by NPIP or an equivalent program must request a permit with each shipment.

(10) [Poultry.] Captive Cervids.

(A) [Live poultry (except those consigned directly to slaughter) shall be accompanied by a Certificate of Veterinary Inspection or a VS Form 9-3 (see 2 CSR 30-2.040). If a VS Form 9-3 is used, a signed and dated owner/shipper statement must be included stating that to his/her best knowledge, the birds are healthy. Poultry known to be infected with pullorum or typhoid that are consigned directly to slaughter must be identified as such by the consignor.] Captive cervids including but not limited to elk, elk-hybrids, red deer, roe deer, white-tail deer, mule deer, sika deer, moose, reindeer, mutjac, and fallow deer that are bartered, exchanged, gifted, leased, or sold entering Missouri, regardless of age must be veterinary inspected, individually identified by official eartag as defined in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, or other means of permanent identification approved by the state veterinarian. This rule does not incorporate any subsequent amendments or additions.

(B) [Live poultry entering Missouri must be tested negative for pullorum-typhoid within the past ninety (90) days or originate from a flock approved by the National Poultry Improvement Plan (NPIP) or an equivalent program which has been tested within the past twelve (12) months with no change of ownership.] An entry permit is required.

(C) [Hatching eggs must be accompanied by a Certificate of Veterinary Inspection certifying the eggs to be from pullorum-free flocks or by a VS Form 9-3.] Brucellosis Requirement.

1. All sexually intact animals six (6) months of age and over not in a status herd or under quarantine for brucellosis must test negative for brucellosis within ninety (90) days prior to movement except—

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may enter on herd status without additional testing provided the certified herd number and current test date is listed on the Certificate of Veterinary Inspection; and

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age and older must test negative for brucellosis within ninety (90) days prior to interstate movement.

(D) Tuberculosis Requirements.

1. Captive cervids, less than six (6) months of age, not known to be affected or exposed to tuberculosis and not in a status herd must have one (1) negative tuberculosis test, within ninety (90) days prior to entering Missouri, using the single cervical method. The negative test date must be listed on the Certificate

of Veterinary Inspection. Captive cervids must have been isolated from other captive cervids during the testing period.

2. Captive cervids, six (6) months of age and older, not known to be affected with or exposed to tuberculosis and not in a status herd, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to movement. Both negative test dates must be listed on the Certificate of Veterinary Inspection. Captive cervids must have been isolated from other captive cervids during the testing period.

3. Movement from tuberculosis status herds.

A. Accredited herd—captive cervids originating from an accredited tuberculosis-free cervid herd may enter on herd status without additional testing provided the accredited herd number and current test date is listed on the Certificate of Veterinary Inspection.

B. Qualified herd—captive cervids originating from a qualified herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.

C. Monitored herd—captive cervids originating from a monitored herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.

D. Captive cervids less than twelve (12) months of age that originate from and were born in a status herd may be moved without further testing provided that they have not been exposed to captive cervids from a lower status herd.

(E) Chronic Wasting Disease.

1. Captive cervids will not be allowed to enter the state if, within the last five (5) years, the animal—

A. Originates from an area or has been in an area that has been reported as a Chronic Wasting Disease (CWD) endemic area; and

B. Originates from a CWD positive captive herd.

2. Elk, elk-hybrids, red deer, roe deer, white-tailed deer, mule deer, sika deer, and moose entering Missouri from any state must have participated in a CWD certification program for five (5) consecutive years. Other cervids, including but not limited to reindeer, mutjac, and fallow deer, must have participated in a certification program recognized by the state of origin prior to entering Missouri. Original anniversary date must be listed on the Certificate of Veterinary Inspection.

3. Captive cervids moving between publicly-owned American Zoos and Aquariums (AZA)-accredited zoos must meet the CWD certification program requirements.

[(D) All poultry and hatching eggs imported into Missouri require an entry permit prior to shipment. Annual entry permits shall be issued by the department to participants in the NPIP or an equivalent program. Producers not approved by NPIP or an equivalent program must request a permit with each shipment.]

(11) *[Captive Cervids.]* Alpacas, Camels, and Llamas.

(A) *[Captive cervids, prior to entering Missouri, must have an entry permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. Captive cervids that enter Missouri must be in compliance with the guidelines as incorporated by reference to the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999 and Brucellosis in Cervidae; Uniform Methods and Rules, Effective September 30, 2003, published by USDA, Veterinary Services, Animal Health Program, 4700 River Road, Unit 36, Riverdale, MD 20737-1231; telephone 301-734-6954; e-mail www.aphis.gov/lpa/pubs/umr.html. This rule does not incorporate any subsequent amendments or additions.]* All alpacas, camels, and llamas bartered, exchanged, leased, sold, or relinquished entering Missouri (excluding livestock markets) must be accompanied by an official Certificate of

Veterinary Inspection showing an individual listing of the common name(s) of the animal(s) such as sex, age, weight, and coloration and be individually identified by official eartag as defined in Title 9, *Code of Federal Regulations*, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, microchip, tattoo, or any other means of permanent identification approved by the state veterinarian. This rule does not incorporate any subsequent amendments or additions.

(B) *[Brucellosis Requirements.]* No tests or permit is required to enter Missouri.

[1. All sexually intact animals six (6) months of age or older, not under quarantine and not affected with brucellosis, must test negative for brucellosis within thirty (30) days prior to movement except:

A. *Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may enter on herd status without additional testing provided the certified herd number and current test date is shown on the Certificate of Veterinary Inspection;*

B. *Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to interstate movement.*

(C) *Tuberculosis Requirements.*

1. *Captive cervids not known to be affected with or exposed to tuberculosis and not in a status herd, as defined in the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to movement. Both negative test dates must be listed on the Certificate of Veterinary Inspection. Animals must have been isolated from other captive cervids, during the testing period.*

2. *Movement from status herds.*

A. *Accredited herd—captive cervids originating from an accredited tuberculosis-free cervid herd as defined by the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, may enter on herd status without additional testing provided the accredited herd number and current test date is shown on the Certificate of Veterinary Inspection.*

B. *Qualified herd—captive cervids originating from a qualified herd as defined by the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.*

C. *Monitored herd—captive cervids originating from a monitored herd as defined by the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.*

D. *Captive cervids less than twelve (12) months of age that originate from and were born in qualified or monitored herds may be moved without further tuberculosis testing, provided that they are accompanied by a Certificate of Veterinary Inspection stating that such captive cervids originated from such herds and have not been exposed to captive cervids from a lower status herd.*

(D) *Chronic Wasting Disease (CWD).*

1. *Captive cervids will not be allowed to enter the state if within the last five (5) years the animal:*

A. Is from an area that has been reported as a chronic wasting disease (CWD) endemic area;

B. Has been in a CWD endemic area; or

C. Originates from a CWD positive captive herd.

2. Until 2008, elk, elk-hybrids, red deer, sika deer, white-tailed deer, and mule deer entering Missouri from any state must have participated in a surveillance program since 2002. Beginning in 2008, surveillance will be required for five (5) consecutive years before the above-mentioned animals will be allowed to enter Missouri from any state.

3. Other captive cervids other than elk, elk-hybrids, red deer, sika deer, white-tailed deer and mule deer must have participated in a surveillance program recognized by the state of origin prior to entering Missouri.

4. All captive white-tailed deer that enter Missouri within two (2) years of CWD monitoring in an approved surveillance program and remained in Missouri at the time of death, must be tested for CWD.]

(12) [Llamas and Alpacas] Ratites (including but not limited to ostrich, rheas, and emus).

(A) [Llamas and alpacas must be identified by tattoo, microchip, eartag or other approved device and be listed individually on a Certificate of Veterinary Inspection.] A Certificate of Veterinary Inspection is required on all ratites bartered, exchanged, leased, sold, or relinquished entering Missouri, except farm-of-origin ratites consigned to an approved slaughter establishment. Ratites must be veterinary inspected and individually identified by official identification (leg band, microchip, wing band, legible tattoo, or other means approved by the state veterinarian) and listed on the Certificate of Veterinary Inspection. Ear tags attached to the ratites are not acceptable.

(B) [No test is required.] No tests or permit is required on ratites entering Missouri.

(13) Psittacine birds, (including but not limited to McCalls or parrots) except budgerigar, must have a Certificate of Veterinary Inspection to enter Missouri.

(14) [Ratites (Including but not limited to ostrich and emu). A Certificate of Veterinary Inspection is required on all ratites entering Missouri, except farm of origin ratites consigned to an approved slaughter establishment. Ratites must be individually identified by a means approved by the Missouri state veterinarian on the Certificate of Veterinary Inspection.] **Dogs and Cats.**

(A) All dogs and cats entering Missouri must be accompanied by a Certificate of Veterinary Inspection. Dogs and cats over four (4) months of age must be vaccinated for rabies by one (1) of the methods and within the time period published in the current *Compendium of Animal Rabies Vaccines* by the National Association of State Public Health Veterinarians, Inc., incorporated by reference and made a party of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington DC 20402-0001, phone: toll free (866) 512-1800; DC area (202) 512-1800, website <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendment or additions.

(B) All dogs and cats must be eight (8) weeks of age to enter into commerce.

(15) Miscellaneous and Exotic Animals. All exotic animals must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and the permanent identification.

(A) [Exotic bovids eight (8) months of age and over must have a negative brucellosis test and a negative tuberculosis

test within thirty (30) days prior to shipment. Exotic bovids include *Bos gaurus* (Indian bison, Gaur), *Bos javanicus* (Banteng), *Bos sauveli* (Kouprey), *Bos grunniens* (domesticated yak), *Bubalus bubalis* (water buffalo), *Bubalus mindorensis* (Tamarau), *Bubalus quarlesi* (Mountain Anoa), *Bubalus depressicornis* (Lowland Anoa) and *Snycerus caffer* (buffalo group).] Elephants (Asiatic, African) must test negative for tuberculosis within one (1) year prior to entry.

(B) [Camels and others of that group must be identified by tattoo, microchip, eartag or other approved device and be listed individually on a Certificate of Veterinary Inspection.] **Importation of skunks and raccoons into Missouri is prohibited by the Missouri Wildlife Code, 3 CSR 10-9.**

(C) [Exotic equine, donkeys, asses, burros and zebras must meet domestic equine requirements.] **No tests are required for animals moving between publicly-owned American Zoos and Aquariums (AZA)-accredited zoos but must be accompanied by a Certificate of Veterinary Inspection. Cervids moving between publicly-owned AZA-accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in subsection (10)(E). An entry permit is required on all animals moving between publicly-owned American Zoos and Aquariums (AZA)-accredited zoos.**

[(D) Exotic goats, sheep and antelope, no tests are required on these animals.

(E) Feral swine, javalena, and peccaries must be in compliance with domestic swine requirements.

(F) Elephants (Asiatic, African) must test negative for tuberculosis within one (1) year prior to entry.

(G) Importation of skunks and raccoons into Missouri is prohibited by the Missouri Wildlife Code, 3 CSR 10-9.

(H) Animals moving between publicly-owned American Zoos and Aquariums (AZA)-accredited zoos are exempt from section (11) except cervids moving between publicly-owned AZA-accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in subsection (11)(D).]

AUTHORITY: section 267.645, RSMo 2000. This version of rule filed Jan. 24, 1975, effective Feb. 3, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 12, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102, by facsimile at (573) 751-6919, or via email at Taylor.Woods@mda.mo.gov. Comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE

Division 30—Animal Health

Chapter 2—Health Requirements for Movement of Livestock, Poultry and Exotic Animals

PROPOSED AMENDMENT

2 CSR 30-2.020 Movement of Livestock, Poultry and Exotic Animals Within Missouri. The director is amending sections (1)

through (6) and adding sections (7), (8), (9), and (10).

PURPOSE: This amendment updates testing and identification requirements for livestock, poultry, and exotic animals moving in Missouri.

(1) Cattle [and], Bison, and Exotic Bovids.

(A) Brucellosis.

1. [Animals consigned from a farm to an approved market shall be tested prior to sale. Markets may apply to the state veterinarian for permission to backtag slaughter animals without testing if consigned directly to slaughter in a sealed vehicle.] No test requirements for movement of cattle from herds not under quarantine for brucellosis.

[2. The official age for brucellosis official calfhood vaccination (OCV) is four through twelve (4–12) months.

3. All test-eligible animals at a livestock market must be identified to the herd of origin with a state-approved backtag.

4. Brucellosis exposed animals or test-eligible animals of unknown status moving illegally within Missouri must be—

A. Returned to the state of origin;

B. Quarantined to farm of origin or farm of destination for a thirty (30)-, one hundred twenty (120)- and three hundred (300)-day negative retest. If the facts so warrant, earlier release may be authorized by the state veterinarian; or

C. Tagged and “S”-branded on the left tailhead and shipped direct to slaughter or to a quarantined feedlot accompanied by a VS 1-27 shipping permit. No indemnity will be paid on negative exposed animals unless in accordance with a previously approved depopulation program.]

(C) No Certificate of Veterinary Inspection is required.

(2) Swine.

(A) [All swine (except slaughter swine) exchanged, bartered, leased or sold within Missouri must be veterinary inspected and identified by official eartag, ear notch, tattoo or other approved device upon change of ownership or leasing. All swine must be quarantined for thirty (30) days upon change of ownership or leasing.] Swine in Missouri are classified as follows:

1. Commercial swine—swine that are continuously managed and have adequate facilities and practices to prevent exposures to feral swine;

2. Feral swine—swine that are free roaming or Russian and Eurasian that are confined. This includes javelinas and peccaries; and

3. Transitional swine—swine raised on dirt or that have reasonable opportunities to be exposed to feral swine.

(B) [Swine offered for sale that do not pass a veterinary inspection for health shall be eartagged and remain on or returned to the farm of origin under quarantine, or be shipped directly to slaughter. Quarantined animals not amenable to treatment shall remain under quarantine until released for slaughter.] Commercial Swine.

1. All swine (except slaughter swine) exchanged, bartered, gifted, leased, or sold within Missouri must be veterinary inspected and individually identified by official eartag or group lot identification number (GIN) as defined in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, ear notch, tattoo, or any other means of permanent identification approved by the state veterinarian. This rule does not incorporate any subsequent amendments or additions.

2. Brucellosis. No test is required for movement of swine

from herds not under quarantine for brucellosis and no Certificate of Veterinary Inspection is required.

3. Pseudorabies. No test is required for movement of swine from herds not under quarantine for pseudorabies and no Certificate of Veterinary Inspection is required.

(C) All Missouri origin sows and boars not under quarantine sold for slaughter are to be individually identified by [either] a backtag, eartag, tattoo, or other approved device at the first point of concentration.

(D) [Swine determined to be infected with or exposed to pseudorabies, as determined by an official pseudorabies test, virus isolation or clinical symptoms, shall be quarantined and an individual herd cleanup plan which initiates herd tests be developed. The state veterinarian shall approve all diagnostic tests for pseudorabies used in Missouri. Suspected pseudorabies will be reported to the state veterinarian’s office.] Movement Other than Commercial Swine.

1. Feral (including Eurasian and Russian swine) may move only from a farm-of-origin directly to an approved slaughter or to an approved slaughter-only market.

2. Transitional swine may move only to a licensed livestock market/sale or to slaughter.

A. Feeder pigs from transitional swine herds may move from farm-of-origin to a market to be inspected and officially identified by official eartag, and then moved from the market under quarantine to be finished for slaughter.

(E) [Use of pseudorabies vaccine in Missouri must have prior approval of the state veterinarian. Swine vaccinated with pseudorabies vaccine may be quarantined at the discretion of the state veterinarian. All vaccinated herds shall participate in a herd cleanup plan.] Market-to-market movement of all classes of swine in Missouri is prohibited except for movement to slaughter-swine-only markets.

[(F) Pseudorabies-quarantined swine can only be moved to an approved slaughter-swine-only market, slaughter establishment. All movements from quarantined herds shall be accompanied by a VS 1-27 shipping permit or owner/shipper statement. The transport vehicle must be cleaned and disinfected before it is used to transport swine or feedstuffs within the following thirty (30) days.

(G) Market-to-market movement of swine into and within Missouri is prohibited except for movements to slaughter-swine-only markets.

(H) Swine moving within Missouri shall be quarantined to the owner’s premises for a period of thirty (30) days following the first move. One (1) move is defined as farm-to-farm or farm-to-market-to-farm. This applies to all swine, except those moving for slaughter or exhibition at scheduled fairs and shows.]

(3) [Sheep and Goats.] Equidae. This includes exotic equine, donkeys, asses, burros, and zebras.

(A) [All sheep and goats exchanged, bartered or sold within Missouri must be free of symptoms of infectious or contagious diseases.] Change of Ownership.

1. All equidae (except nursing foals accompanied by their dams) bartered, donated, exchanged, gifted, leased, relinquished, sold, or otherwise involved in a change of ownership must have an official negative Equine Infectious Anemia (EIA) test within twelve (12) months prior to change of ownership or lease.

2. All change of ownership or leasing must be accompanied by the original owner’s copy of the VS Form 10-11 or any officially recognized federal/state EIA test chart showing the graphic description of all markings or imprinted photograph on any officially recognized federal/state EIA test chart needed for permanent identification.

3. No photocopies or facsimiles of the VS Form 10-11 are valid for change of ownership or leasing.

4. No *equidae* will be sold EIA test pending through private treaty.

(B) [All breeding sheep, regardless of age and all sheep eighteen (18) months of age and over, must have official identification (eartag, electronic implant or registration tattoo accompanied by registration papers) identifying them to the flock of origin.] **Boarding, Breeding, and Training Facilities.**

1. All *equidae* assembled at boarding, breeding, or training stables shall be tested negative for EIA within the preceding twelve (12) months.

2. The owner/manager of the premises is responsible for maintaining proof of current negative EIA test for each animal; a certified photocopy or certified facsimile is acceptable proof of a current negative EIA test.

A. A certified photocopy is one obtained from the testing veterinarian or accredited testing laboratory bearing seal or signature in the lower right-hand corner along with the date of certification of the photocopy in some ink color other than black.

B. A certified facsimile is one obtained from the testing veterinarian or accredited testing laboratory bearing the facsimile imprint of the originating facility clearly across the top of the page. The form must be completed and legible. It must show the date of transmission either along the top or in the lower right-hand corner.

(C) [All sexually intact goats, except low-risk commercial goats as defined in the Code of Federal Regulations, must have official identification (eartag, electronic implant or registration tattoo accompanied by registration papers) identifying them to the herd of origin.] **Equidae Owned, Leased, or Rented by a Business or Public Entity.**

1. *Equidae* owned, leased, or rented by a business or public entity that congregate with privately-owned *equidae* or other *equidae* offering the same service must have an official negative EIA test within the preceding twelve (12) months.

2. The owners or managers shall be responsible for maintaining proof (either the original VS Form 10-11 or any officially recognized federal/state EIA test chart, certified photocopy, or certified facsimile of the VS Form 10-11) of current negative test for each animal being used for the service. These records shall be available for inspection by a veterinarian or animal health officer employed by the Department of Agriculture or a veterinarian or animal health technician employed by United States Department of Agriculture (USDA), Animal and Plant Health Inspection Services (APHIS)-Veterinarian Services.

[(D)] All suspected or confirmed cases of scrapie in Missouri must be reported immediately to the state veterinarian.]

[(E)](D) [All sheep and goats from scrapie infected or source flock/herd will be quarantined.] All managed or sponsored trail rides, rodeos, or competitions must require an official negative EIA test within twelve (12) months prior to the event.

1. The manager or sponsor of each assembly or event shall be responsible for ensuring that each animal is accompanied by proof of an official negative EIA test (either the original VS Form 10-11 or certified photocopy or certified facsimile of the VS Form 10-11) and shall not allow *equidae* not so certified to participate in the event or to congregate with other *equidae*.

2. These records shall accompany the animal and shall be available for inspection by state/federal personnel as well as show/event personnel establishing compliance with regulations.

3. The owner of each animal is also responsible to comply with these requirements under sections 267.010 to 267.730, RSMo, and may result in assessed civil penalties not to exceed ten thousand dollars (\$10,000) for each violation.

[(F)](E) [Quarantine release will be issued according to the Code of Federal Regulations.] Alteration or substitution of any information on any VS Form 10-11 or any officially recognized federal/state EIA test chart, including certified photocopy and

certified facsimile, or Certificate of Veterinary Inspection shall cause the document to be invalid and in violations of sections 267.010 to 267.730, RSMo, and may result in civil penalties not to exceed ten thousand dollars (\$10,000) per violation.

(F) Procedures for Handling Missouri EIA Positive *Equidae*.

1. Upon notification of a positive EIA test from any accredited laboratory, the positive animal(s) will be permanently identified by microchip, quarantined, and isolated at least two hundred (200) yards from any other *equidae*.

2. All *equidae* determined or believed to be exposed to the positive animal will be quarantined, permanently identified by microchip, and blood collected by a veterinarian employed by the Missouri Department of Agriculture or a veterinarian employed by USDA, APHIS-Veterinarian Services or a licensed accredited deputy veterinarian acting under the direction of the state veterinarian for official EIA testing.

3. The original reactor animal is to be tested a second time within thirty (30) days of the first positive test. The second sample will be drawn by state or federal regulatory personnel and will be submitted to a Department of Agriculture Animal Health Diagnostic Laboratory. The owner may request that the sample be split and submit one (1) to a private accredited laboratory of their choice at their own expense. There will be no laboratory charge for retests of positive or exposed animals submitted to a Department of Agriculture Animal Health Diagnostic Laboratory.

4. Upon confirmation of positive status by a Department of Agriculture Animal Health Diagnostic Laboratory and the National Veterinary Services Laboratory, the positive animal will be freeze-branded on the left side of the neck with an alphanumeric code that indicates the state of Missouri (by the number 43), EIA positive by (AP), the last digit of the year, followed by the positive EIA case number for that year. The freeze-brand will be a minimum of two inches (2") high and seven (7) characters long.

5. The owner or a representative of the owner must decide within fifteen (15) days the disposition of the positive animal with the following options:

A. Ship to an approved slaughter establishment on a VS Form 1-27 shipping permit issued by a veterinarian or animal health officer employed by the Department of Agriculture or a veterinarian or animal health technician employed by USDA, APHIS-Veterinarian Services. Market veterinarians may issue a VS Form 1-27 shipping permit for positive animals going directly to slaughter from a licensed livestock market/sale;

B. Euthanasia with a written statement from the attending veterinarian including date and disposition of the animal(s); or

C. Permanently quarantined, with the owner agreeing to abide by all the stipulations required by signing an EIA Quarantine Affidavit (MO Form 350-1052).

6. All other *equidae* owned/managed or leased will be placed under quarantine for sixty (60) days after removal of the last known positive animal. Two (2) negative EIA tests will be required to be released from quarantine. The first test at the time exposure was discovered and the second test sixty (60) days or more after the removal of the last known positive animal.

A. All exposed animals will be permanently identified by electronic microchip.

B. Blood samples will be drawn by a veterinarian or animal health officer employed by the Department of Agriculture or a veterinarian or an animal health technician employed by USDA, APHIS-Veterinarian Services and submitted to a Department of Agriculture Animal Health Diagnostic Laboratory (at no charge).

C. Foals from EIA positive mares will acquire passive antibody to EIA in the colostrum and may test positive for more than six (6) months. In these cases, the foal will be quarantined

for at least sixty (60) days after weaning or separation from all positive equids and up to one (1) year of age pending negative EIA test results. If the animal is still test-positive by one (1) year of age, it is considered infected and will be handled as such.

7. Violation of quarantine by any person in possession of the positive animal(s) or exposed animal(s) or refusal to test or to allow microchip implanting will be in violation of section 267.603, RSMo, and may result in civil penalties not to exceed one thousand dollars (\$1,000) for each violation and penalties not to exceed five hundred dollars (\$500) for each day such person fails to cooperate as required.

(G) *Brucellosis in Equidae.* All equine showing signs of fistulous withers or poll evil will be tested for brucellosis. Samples must be submitted to the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City, Missouri. All positive animals will be shipped to slaughter on a VS Form 1-27 shipping permit or be placed under a special order of quarantine.

(4) *[Equidae] Sheep.*

(A) *[Change of Ownership:]* All sheep (including exotic sheep and antelope), regardless of age, exchanged, bartered, gifted, leased, or sold within Missouri must be free of symptoms of infectious or contagious diseases.

1. All equidae (except nursing foals accompanied by their dams) sold, traded, exchanged, leased, gifted, donated, relinquished or otherwise involved in a change of ownership must have an official negative Equine Infectious Anemia (EIA) test within twelve (12) months prior to change of ownership or lease;

2. All change of ownership or leasing must be accompanied by the original owner's copy of the VS Form 10-11 (or later revision) or any officially recognized state EIA test chart complete and accurately written, showing graphic descriptions of all marking needed for identification;

3. No photocopies or facsimiles of VS Form 10-11 (or later revision) are valid for change of ownership or leasing.]

(B) *[Livestock Market/Sale:]* All sheep (including exotic sheep and antelope), regardless of age or gender, must be individually identified by official scrapie identification as defined in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, or any other means approved by the state veterinarian identifying them to the flock-of-origin. This rule does not incorporate any subsequent amendments or additions.

1. Missouri origin equidae may move directly from a farm-of-origin (defined as maintained on premises for at least one hundred twenty (120) days) to a licensed Missouri market/sale without a negative EIA test, but must be accompanied by an owner/shipper statement showing origin and destination;

2. All farm-of-origin equidae moving to a licensed Missouri market/sale without a negative EIA test will have blood samples for EIA testing collected at the market/sale before the sale at seller's expense;

3. The animal(s) will sell test-pending with an announcement made at the time of sale that the animal(s) is under quarantine to the buyer until negative test results are received. The animal(s) is not to leave Missouri nor be sold again under the terms of the test-pending quarantine until released by receipt of official negative test results.]

(C) *[Boarding, Breeding and Training Facilities.]* No tests or Certificate of Veterinary Inspection is required.

1. All equidae assembled at boarding, training or breeding stables shall be tested negative for EIA within the pre-

ceding twelve (12) months;

2. The owner/manager of the premises is responsible for maintaining proof of current negative EIA test for each animal; a photocopy or facsimile is acceptable proof of a current negative EIA test;]

(D) *[Equidae owned, leased or rented by a business or public entity:]* All suspected or confirmed cases of scrapie must be reported immediately to the state veterinarian.

1. Equidae owned, leased or rented by a business or public entity that congregate with privately owned equidae or other equidae offering the same service must have an official negative EIA testing within the preceding twelve (12) months.

2. The owners or managers shall be responsible for maintaining proof of current negative test for each animal being used for the service. These records shall be available for inspection by a veterinarian or animal health officer employed by the Department of Agriculture or a veterinarian or an animal health technician employed by USDA, APHIS-Veterinarian Services.]

(E) *[All managed or sponsored trail rides, rodeos or competitions must require an official negative EIA test within twelve (12) months prior to the event.]* All sheep (including exotic sheep and antelope) from a scrapie infected or source flock will be individually identified and quarantined.

1. The manager or sponsor of each assembly or event shall be responsible for ensuring that each animal is accompanied by proof of an official negative EIA test and shall not allow equidae not so certified to participate in the event or to congregate with other equidae.

2. These records shall accompany the animal and shall be available for inspection by state/federal regulatory personnel as well as show/event personnel establishing compliance with regulation.

3. The owner of each animal is also responsible to comply with these requirements under sections 267.010 to 267.730, RSMo, and may result in assessed civil penalties not to exceed ten thousand dollars (\$10,000) for each violation.]

(F) *[Any riding, driving, packing, field trials, etc., using equidae on publicly-owned forests, parks or trails requires proof of an official negative EIA test within the preceding twelve (12) months by VS Form 10-11 (or later revision) or any officially recognized state EIA test chart including certified photocopy or certified facsimile of the VS Form 10-11 (or later revision) or any officially recognized state EIA test chart.]* Quarantine release will be issued according to Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

1. A certified photocopy is one obtained from the testing veterinarian or accredited testing laboratory bearing seal or signature in the lower right hand corner along with the date of certification of the photocopy in some ink color other than black.

2. A certified facsimile is one obtained from the testing veterinarian or accredited testing laboratory bearing the facsimile imprint of the originating facility clearly across the top of the page. The form must be complete and legible. It must show the date of transmission either along the top or in the lower right hand corner.

(G) Alteration or substitution of any information on any VS Form 10-11, including certified photocopy and certified facsimile, or Certificate of Veterinary Inspection shall cause the

document to be invalid and in violations of sections 267.010 to 267.730, RSMo, and may result in civil penalties not to exceed ten thousand dollars (\$10,000) per violation.

(H) *Procedures for Handling Missouri EIA Positive Equidae.*

1. Upon notification of a positive EIA test from any accredited laboratory, the positive animal(s) will be permanently identified by microchip, quarantined, and isolated at least two hundred (200) yards from any other equidae.

2. All equidae determined or believed to be exposed to the positive animal will be quarantined, permanently identified by microchip, and blood collected by a veterinarian employed by the Missouri Department of Agriculture or a veterinarian employed by USDA, APHIS-Veterinarian Services or a licensed accredited deputy veterinarian acting under the direction of the state veterinarian for official EIA testing.

3. The original reactor animal is to be tested a second time within thirty (30) days of the first positive test. The second sample will be drawn by state or federal regulatory personnel and will be submitted to a Department of Agriculture Animal Health Diagnostic Laboratory. The owner may request that the sample be split and submit one (1) to a private accredited laboratory of their choice at their own expense. There will be no laboratory charge for retests of positive or exposed animals submitted to a Department of Agriculture Animal Health Diagnostic Laboratory.

4. Upon confirmation of positive status by a Department of Agriculture Animal Health Diagnostic Laboratory and the National Veterinary Services Laboratory, the positive animal will be freeze-branded on the left side of the neck with an alphanumeric code that indicates the state of Missouri (by the number 43), EIA positive by (AP), the last digit of the year, followed by the positive EIA case number for that year. The freeze-brand will be a minimum of two inches (2") high and seven (7) characters long.

5. The owner or a representative of the owner must decide within fifteen (15) days the disposition of the positive animal with the following options:

A. Ship to an approved slaughter establishment on a VS Form 1-27 shipping permit issued by a veterinarian or animal health officer employed by the Department of Agriculture or a veterinarian or animal health technician employed by USDA, APHIS-Veterinarian Services. Market veterinarians may issue a VS Form 1-27 shipping permit for positive animals going directly to slaughter from a licensed livestock market/sale;

B. Euthanasia with a written statement from the attending veterinarian including date and disposition of the animal(s); or

C. Permanently quarantined, with the owner agreeing to abide by all the stipulations required by signing an EIA Quarantine Affidavit (MO Form 350-1052).

6. All other equidae owned/managed or leased will be placed under quarantine for sixty (60) days after removal of the last known positive animal. Two (2) negative EIA tests will be required to be released from quarantine. The first test at the time exposure was discovered and the second test sixty (60) days or more after the removal of the last known positive animal.

A. All exposed animals will be permanently identified by electronic microchip.

B. Blood samples will be drawn by a veterinarian or animal health officer employed by the Department of Agriculture or a veterinarian or an animal health technician employed by USDA, APHIS-Veterinarian Services and submitted to a Department of Agriculture Animal Health Diagnostic Laboratory (at no charge).

C. Foals from EIA positive mares will acquire passive antibody to EIA in the colostrum and may test positive for

more than six (6) months. In these cases, the foal will be quarantined for at least sixty (60) days after weaning or separation from all positive equids and up to one (1) year of age pending negative EIA test results. If the animal is still test-positive by one (1) year of age, it is considered infected and will be handled as such.

7. Violation of quarantine by any person in possession of the positive animal(s) or exposed animal(s) or refusal to test or to allow microchip implanting will be in violation of section 267.603, RSMo and may result in civil penalties not to exceed one thousand dollars (\$1,000) for each violation and penalties not to exceed five hundred dollars (\$500) for each day such person fails to cooperate as required.

(I) *Brucellosis in Equidae.* All equine showing signs of fistulous withers or poll evil will be tested for brucellosis. Samples must be submitted to the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City, Missouri. All positive animals will be shipped to slaughter on a VS Form 1-27 shipping permit or be placed under a special order of quarantine.]

(5) *[Ratites (Including, but not Limited to, Ostrich and Emu). All ratites must be veterinary inspected and individually identified by a means approved by the Missouri state veterinarian upon change of ownership or leasing.] Goats (Including Exotic Goats).*

(A) All goats (including exotic goats), regardless of age, exchanged, bartered, gifted, leased, or sold within Missouri must be free of symptoms of infectious or contagious diseases.

(B) All goats (including exotic goats) regardless of age or gender must be individually identified by official scrapie identification as defined in Title 9, *Code of Federal Regulations*, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, or any other means approved by the state veterinarian identifying them to the herd-of-origin. This rule does not incorporate any subsequent amendments or additions.

(C) No tests or Certificate of Veterinary Inspections is required.

(D) All suspected or confirmed cases of scrapie must be reported immediately to the state veterinarian.

(E) All goats (including exotic goats) from a scrapie infected or source herd will be individually identified and quarantined.

(F) Quarantine release will be issued according to the Title 9, *Code of Federal Regulations*, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

(6) *[Miscellaneous and Exotic Animals. All exotic animals must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.] Captive Cervids.*

(A) *[Exotic bovids eight (8) months of age and over must have a negative brucellosis test and a negative tuberculosis test within thirty (30) days prior to shipment. Exotic bovids include Bos gaurus (Indian bison, Gaur), Bos javanicus (Banteng), Bos sauveli (Kouprey), Bos grunniens (domesticated yak), Bubalus bubalis (water buffalo), Bubalus mindorensis (Tamarau), Bubalus quarlesi (Mountain Anoa),*

Bubalus depressicornis (Lowland Anoa) and Syncerus caffer (buffalo group).] Captive cervids including but not limited to elk, elk-hybrids, red deer, roe deer, white-tailed deer, mule deer, sika deer, moose, reindeer, mutjac, and fallow deer exchanged, bartered, gifted, leased, or sold in Missouri must be veterinary inspected, individually identified by official eartag as defined in Title 9, *Code of Federal Regulations*, Part 71, published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, legible tattoo or any other means of permanent identification approved by the state veterinarian and be individually listed on a Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions.

(B) *[Exotic cattle must meet the same brucellosis requirements as domestic cattle. These animals eight (8) months of age and over must be tested for tuberculosis within thirty (30) days prior to shipment.]* Brucellosis Requirements.

1. All sexually intact animals six (6) months of age and older, not under quarantine and not affected with brucellosis must test negative for brucellosis within ninety (90) days prior to movement except—

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herd may move on herd status without additional testing provided the certified herd number and current test date is listed on the Certificate of Veterinary Inspection; and

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age and older must test negative for brucellosis within ninety (90) days prior to movement.

(C) *[Camels, llamas, alpaca and others of that group must be officially identified by tattoo, microchip, eartag or other approved device and be listed individually on a Certificate of Veterinary Inspection.]* Tuberculosis Requirements.

1. Captive cervids, less than six (6) months of age, not known to be affected or exposed to tuberculosis and not in a status herd must have one (1) tuberculosis test, not less than ninety (90) days prior to movement, using the single cervical method. The negative test date must be listed on the Certificate of Veterinary Inspection. Captive cervids must have been isolated from other captive cervids during the testing period.

2. Captive cervids six (6) months of age and over not known to be affected with or exposed to tuberculosis and not in a status herd must have two (2) tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to movement. Both negative test dates must be listed on the Certificate of Veterinary Inspection. Captive cervids must have been isolated from other captive cervids during the testing period.

3. Movement from status herds.

A. Accredited herd—captive cervids originating from accredited tuberculosis-free herds may move on the current herd number and test date.

B. Qualified herd—captive cervids originating from a qualified herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to date of movement.

C. Monitored herd—captive cervids originating from a monitored herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.

D. Captive cervids less than twelve (12) months of age that originate from and were born in a qualified or monitored herd may be moved without further tuberculosis testing, provided that they have not been exposed to captive cervids from a lower status herd.

(D) *[Elk and deer may move within Missouri in compliance with the guidelines as incorporated by reference to the*

Brucellosis in Cervidae; Uniform Methods and Rules, Effective September 30, 1998 and Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999.] Chronic Wasting Disease.

1. *[All sexually intact animals six (6) months of age or older must test negative for brucellosis within thirty (30) days prior to shipment, except:]* All cervids over one (1) year of age must be enrolled in a Chronic Wasting Disease (CWD) program sponsored by the Department of Agriculture. Original anniversary date must be listed on the Certificate of Veterinary Inspection.

2. All suspected or confirmed cases of CWD must be reported to the state veterinarian.

3. All captive cervids from infected or source herds will be quarantined.

[A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may move on the current herd number and test date; or

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to movement;

2. All cervidae six (6) months of age and over must have a negative tuberculosis test using the single cervical method within ninety (90) days prior to shipment, except:

A. Accredited herd—captive cervids originating from accredited tuberculosis-free herd as defined by the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, may move on the current herd number and test date;

B. Qualified herd—captive cervids originating from a qualified herd as defined by the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement;

C. Monitored herd—captive cervids originating from a monitored herd as defined by the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement;

D. Captive cervids less than twelve (12) months of age that originate from and were born in qualified or monitored herds may be moved without further tuberculosis testing, provided that they are accompanied by a certificate stating that such captive cervids originated from such herds and have not been exposed to captive cervids from a lower status herd.

3. All elk moving within Missouri must originate from a herd that is enrolled in a chronic wasting disease (CWD) surveillance program as outlined by the Missouri Department of Agriculture.

4. All suspected or confirmed cases of CWD must be reported immediately to the state veterinarian.

5. All captive cervids from infected or source herds will be quarantined.

(E) Exotic equine, donkeys, asses, burros and zebras must meet domestic equine requirements.

(F) Exotic goats, sheep and antelope. No tests are required on these animals.

(G) Feral swine, javalena, and peccaries must be in compliance with domestic swine requirements.

(H) Elephants (Asiatic, African) must be tested negative for tuberculosis within one (1) year prior to shipment.

(I) Animals moving between publicly-owned American Association of Zoological Parks and Aquariums (AAZPA)-accredited zoos are exempt from section (6).]

(7) **Alpacas, Camels, and Llamas.** No testing, identification, or Certificate of Veterinary Inspection is required on alpacas, camels, and llamas exchanged, bartered, leased, relinquished, or sold within Missouri (excluding livestock markets).

(8) **Ratites.** No testing, identification, or Certificate of Veterinary Inspection is required on ratites (including but not limited to ostrich, rheas, and emus) exchanged, bartered, leased, relinquished, or sold within Missouri (excluding livestock markets).

(9) **Dogs and Cats.**

(A) All dogs and cats exchanged, bartered, leased, relinquished, or sold within Missouri over four (4) months of age must be vaccinated by one (1) of the methods and within the time period published in the current *Compendium of Animal Rabies Vaccines* by the National Association of State Public Health Veterinarians, Inc., incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington DC 20402-0001, phone: toll free (866) 512-1800; DC area (202) 512-1800, website <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

(B) All dogs and cats must be eight (8) weeks of age to enter into commerce.

(10) **Miscellaneous and Exotic Animals.** All exotic animals must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and permanent identification.

(A) Elephants (Asiatic, African) must be tested negative for tuberculosis within one (1) year prior to movement.

(B) Animals moving between publicly-owned American Association of Zoological Parks and Aquariums (AAZPA)-accredited zoos are exempt from the requirement through this regulation except cervids moving between publicly-owned Association of Zoos and Aquariums (AZA)-accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in subsection (6)(D).

AUTHORITY: section 267.645, RSMo 2000. Original rule filed April 18, 1975, effective April 28, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 12, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102, by facsimile at (573) 751-6919, or via email at Taylor.Woods@mda.mo.gov. Comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 6—Livestock Markets**

PROPOSED AMENDMENT

2 CSR 30-6.015 Requirements and Responsibilities of Market Licensees. The director is amending subsection (2)(D) and sections

(3) and (7), deleting sections (8)–(10), renumbering and amending section (11), and renumbering sections (12)–(15).

PURPOSE: This amendment updates requirements and responsibilities of market licensees.

(2) As used in this chapter, unless the context clearly says otherwise, the following terms shall mean:

(D) Official identification—[*United States Department of Agriculture (USDA)-approved eartag, backtag or other device used for identification of livestock*] as defined by Title 9, *Code of Federal Regulations, Part 71*, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, or any other means of individual identification approved by the state veterinarian. This rule does not incorporate any subsequent amendments or additions.

(3) Any person engaged in establishing or operating a livestock sale or market shall file with the state veterinarian an application [for] and be granted a license to transact business prior to opening.

(7) All licensees defined in Chapter 277, RSMo, must secure veterinary inspection of all livestock offered for sale at any livestock sale or market. A licensed, accredited veterinarian approved by the state veterinarian must inspect all livestock [and], perform all required testing of livestock for disease, [including any method of identifying animals in connection with disease] identify individuals by official identification, and forward required information (age, gender, breed, official eartag and backtag, owner contact information/ticket number) in an approved format to the state veterinarian. No person shall remove or tamper with, or cause the removal of or tampering with, an official eartag or backtag or other identification device required to move animals interstate, intrastate, or through a livestock market/sale. No person shall cause livestock to be removed from any livestock market/sale until that livestock has met all the requirements of Missouri or the state of destination, whichever applies.

[8] *Permit to Release Untested Slaughter Cattle in a Sealed Vehicle.* If this permission is granted, the licensee agrees to—

(A) Record complete backtag numbers on all copies of sales and purchases;

(B) Have consignor declare upon delivery of test-eligible cattle whether they shall be tested at owner expense and bangle tags applied or sold untested direct to slaughter with backtags applied. This decision shall apply to all test-eligible cattle in the consignment;

(C) Release the untested slaughter cattle on a completed form MDA-SMP (Missouri Department of Agriculture Sealed Movement Permit);

(D) Release cattle to a slaughter establishment in a sealed truck, sealed by an appointed person under the supervision of the market/sale veterinarian; and

(E) Not allow mixed loading of untested, test-eligible and tested cattle unless all are delivered directly to slaughter in a sealed vehicle.

(9) Female bovine imported from brucellosis Class B states that are not officially calfhood vaccinated (OCV) shall not be released by the licensee unless in compliance with 2 CSR 30-6.020(3)(B).

(10) All test-eligible cattle from other than brucellosis Class Free or brucellosis Class A states presented for sale at a market/sale shall be identified by a method approved by the

state veterinarian to show the brucellosis classification of the animal's state of origin. The sale ring announcer shall declare that the animal is sold under condition of quarantine for retest in sixty to one hundred twenty (60–120) days at the purchaser's expense or for consignment directly to slaughter within five (5) days.

(A) The intrastate movement permit number assigned to these animals shall be the MODAV-20 certificate number preceded by the market/sale veterinarian's letter code.

(B) The proper distribution of the form MODAV-20 shall be—the yellow copy to the purchaser (before animals leave the market), the white copy to the Missouri Department of Agriculture and the green copy retained by the issuing veterinarian.

(C) A licensee shall not allow the release of cattle originating from Class B states unless accompanied by a properly completed MODAV-20 or a properly completed interstate movement certificate.]

[(11)](8) Facilities provided by the livestock market/sale for the market/sale veterinarian shall include—

(A) Office and laboratory area to allow ample work space and room for a work table, desk, chair, lamp, and one (1) file cabinet;

(B) Heat, light, and ventilation to properly perform required diagnostic tests;

(C) Livestock handling facilities with livestock collecting pens, runways, and a catching chute to confine and *[blood test both cattle and swine]* restrain animals for completion of required testing and/or official identification (eartag and backtag) requirements; and

(D) A laboratory area with a sink, hot and cold running water, and a floor of an impervious material which allows cleaning and disinfection. Electrical outlets must be available and convenient to enable the use of equipment such as centrifuges, branding irons, and electrical heaters.

[(12)](9) Failure of the licensee to aid the market/sale veterinarian in executing all laws and regulations governing the sale and movement of livestock may result in removal of the license to conduct sales.

[(13)](10) Structurally safe and sanitary conditions must be maintained on yards, pens, chutes, alleys, and other facilities and premises used in connection with livestock by the person(s) in possession of the facilities and premises. These facilities are subject to inspection by USDA Veterinary Services or state Animal Health personnel.

[(14)](11) All licensees defined in Chapter 277, RSMo, must present upon request to a duly authorized representative of the Division of Animal Health[,] records of any livestock sale or transaction. Failure to do so may result in the suspension or revocation of the market/sale license, a civil penalty of up to one thousand dollars (\$1,000) for each violation, or both.

[(15)](12) Violations at Markets/Sales. Failure either to comply with the laws of Missouri and the rules of the Missouri Department of Agriculture or to fulfill the requirements and responsibilities as specified in this rule can result in a suspension or revocation of the market/sale license, fines of up to one thousand dollars (\$1,000) per violation, or both.

AUTHORITY: section 277.160, RSMo [Supp. 1998] 2000. Original rule filed June 15, 1990, effective Dec. 31, 1990. Emergency amendment filed June 5, 1992, effective June 15, 1992, expired Oct. 12, 1992. Amended: Filed March 3, 1992, effective Sept. 6, 1992. Amended: Filed Jan. 4, 1999, effective July 30, 1999. Amended: Filed June 12, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102, by facsimile at (573) 751-6919, or via email at Taylor.Woods@mda.mo.gov. Comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 6—Livestock Markets

PROPOSED AMENDMENT

2 CSR 30-6.020 Duties and Facilities of the Market/Sale Veterinarian. The director is amending sections (2) through (8) and adding sections (9), (10), and (11).

PURPOSE: This amendment updates testing requirements of livestock at a livestock market/sale in Missouri.

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

(2) Duties and Responsibilities of the Market/Sale Veterinarian. The market/sale veterinarian shall—

(A) *[Complete training successfully and be qualified to run the Brucella Buffered Antigen (B.B.A.) Card Test. Any veterinarian assistant or animal health technician who performs any testing at a livestock market/sale under the supervision of the market/sale veterinarian must also successfully complete training and be qualified to run the B.B.A. Card Test]* Collect required blood samples from all test-eligible animals consigned to the market/sale and submit those samples to the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City for testing required by the Animal Health laws and rules pertaining to disease control;

(B) Inspect livestock markets/sales for cleanliness, good repair, and proper disinfection of certain areas possibly contaminated by diseased livestock;

(C) *[Collect blood samples from all test-eligible animals consigned to the market/sale and submit those samples to the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City for testing;]* Inspect all livestock visually and, if necessary, perform further diagnostic procedures to determine the health status. No livestock shall be released from a licensed Missouri livestock market/sale by the market/sale veterinarian until the livestock have been officially identified, tested, and treated as required by Animal Health laws and rules pertaining to the movement of livestock. The market/sale veterinarian shall forward required information (age, gender, breed, official eartag and backtag, owner contact information/ticket

number) in an approved format to the state veterinarian; and

(D) *[Inspect all livestock visually and, if necessary, perform further diagnostic procedures to determine the health status. No livestock shall be released from a livestock market/sale by the market/sale veterinarian until the livestock have been handled, tested and treated as required by Animal Health laws and rules pertaining to the movement of livestock; and] The market veterinarian is authorized to render judgement on any animal determined to be sick or suffering from a noninfectious or infectious disease upon admittance to the livestock market. The animal(s) will be—*

1. Returned to the farm of origin with or without a quarantine, depending on the seriousness of the disease or illness;
2. Condemned, isolated, and later destroyed or properly disposed of in a timely manner; or
3. Isolated and, if allowed to sell, an announcement must be made at the time of sale about the problem the animal is suffering (for example, bloat, cancer eye, foot rot).

[(E) Find any animal that is sick or suffering from a noninfectious disease either—

1. Returned to farm of origin with or without a quarantine, depending on the seriousness of the disease or illness;
2. Condemned, isolated and later destroyed or properly disposed of; or
3. Isolated and, if allowed to sell, an announcement must be made at the time of sale about the problem the animal is suffering (for example, bloat, cancer eye, foot rot).]

(3) *[Required Testing of Bovine.] Cattle, Bison, and Exotic Bovids.*

(A) Animal Identification. All animals eighteen (18) months of age and older shall be identified by eartag and backtag. No person shall remove or tamper with or cause the removal of or tampering with an official eartag or backtag or other identification devices required to move animals interstate, intrastate, or through a livestock market/sale.

1. If color-coded bangle tags are used to indicate state of pregnancy, they shall be applied as follows:

- A. Blue—first trimester—one through three (1–3) months pregnant;
- B. Red—second trimester—four through six (4–6) months pregnant;
- C. Green—third trimester—seven through nine (7–9) months pregnant;
- D. Yellow—open—not pregnant; and
- E. White—not examined for pregnancy status.

2. Proper procedure for determining the age of cattle is—

- A. Eighteen (18) months—absence of the central deciduous (baby) incisors;
- B. Two (2) years—the presence of the first pair of fully erupted permanent incisor teeth;
- C. Two and one-half (2 ½) years—the appearance of the second pair of permanent incisor teeth;
- D. Eruption, spread, and wear of incisor teeth may be used to determine age; and
- E. The age of the animal will be shown on the official bangle tag or displayed on the animal in a manner easily visible to the buyer.

(B) *[Testing of Bovine for] Brucellosis Requirements.*

1. The market/sale veterinarian must *[draw]* obtain required blood samples on all test-eligible animals (bulls, heifers, and cows eighteen (18) months of age and over) for brucellosis and submit those samples to the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City for testing required by the Animal Health laws and rules pertaining to disease control. This includes animals consigned to slaughter and feedlots as well as those that might return to farms as breeding stock. *[An exception may occur at markets/sales with enough volume of test-eligible*

slaughter cattle that have acquired an agreement with the state allowing release of untested slaughter cattle in a sealed truck. The market/sale veterinarian will supervise persons appointed to apply official United States Department of Agriculture (USDA) seals to sealed trucks if the licensee has an agreement with the state to do so.]

2. A market/sale veterinarian may recognize a brucellosis test performed *[at a Missouri market/sale as an official and valid test for]* within the last five (5) working days if proper health certificates accompany the animal(s). An official bangle tag may serve as a health certificate for intrastate movement, provided the following information is shown on the tag:

- A. Date of test;
- B. Complete official eartag number;
- C. Age of the animal; and
- D. State code letters of the testing veterinarian[; and].

[E If color-coded bangle tags are used to indicate stage of pregnancy, they shall be applied as follows:

- (I) Blue—first trimester—one through three (1–3) months pregnant;
- (II) Red—second trimester—four through six (4–6) months pregnant;
- (III) Green—third trimester—seven through nine (7–9) months pregnant;
- (IV) Yellow—open—not pregnant; and
- (V) White—not examined for pregnancy status.

3. All out-of-state test-eligible cattle must be retested when presented to a Missouri market/sale. The market/sale veterinarian shall accurately complete form MODAV-20 upon release of any test-eligible cattle originating from other than brucellosis Class Free or brucellosis Class A states.

A. The intrastate movement permit number shall be the MODAV-20 certificate number preceded by the letter code of the issuing veterinarian.

B. The proper distribution of the form MODAV-20 certificate is as follows:

- (I) The yellow copy shall be issued to the purchaser or his/her agent prior to release of the animal(s) from the livestock market/sale;
- (II) The white copy shall be mailed to the Missouri Department of Agriculture; and
- (III) The green copy shall be retained by the issuing veterinarian.

4. Proper procedure for determining the age of test-eligible cattle is—

- A. Eighteen (18) months—absence of the central deciduous (baby) incisors;
- B. Two (2) years—the presence of the first pair of fully erupted permanent incisor teeth;
- C. Two and one-half (2 1/2) years—the appearance of the second pair of permanent incisor teeth;
- D. Eruption, spread and wear of incisor teeth may be used to determine age; and
- E. The age of the animal will be shown on the official bangle tag or displayed on the animal in a manner easily visible to the buyer.]

(C) **Tuberculosis Requirements.**

1. All test-eligible (those animals over two (2) months of age) animals must be individually identified by official eartag as defined by Title 9, *Code of Federal Regulations*, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, individual brand, registration tattoo, or any other means approved by the state veterinarian and listed on the Certificate of Veterinary

Inspection. This rule does not incorporate any subsequent amendments or additions.

2. Beef Cattle.

A. All classes of beef cattle (including exotic bovids and bison) two (2) months of age and older, both breeding and feeding, entering Missouri to a licensed market from a state having a tuberculosis-free status may enter without additional testing requirements or entry permit.

B. All classes of beef cattle two (2) months of age and older, both breeding and feeding, entering Missouri from a state having a tuberculosis status less than free must meet the following requirements:

(I) Must obtain an entry permit; and

(II) Must have a negative tuberculosis test within sixty (60) days of shipment, test date must be listed on the Certificate of Veterinary Inspection; or

(III) Move from an accredited tuberculosis-free herd (herd number and current herd test date must be listed on the Certificate of Veterinary Inspection); or

(IV) Move directly from a herd of origin that has one (1) complete negative herd test within one (1) year (date of test must be listed on the Certificate of Veterinary Inspection).

3. Dairy Cattle.

A. All classes of dairy cattle two (2) months of age and older, both breeding and feeding, entering Missouri to a licensed market must meet the following requirements:

(I) Must obtain an entry permit; and

(II) Must have a negative tuberculosis test within sixty (60) days of shipment, test date must be listed on the Certificate of Veterinary Inspection; or

(III) Move from an accredited tuberculosis-free herd (herd number and current herd test date must be listed on the Certificate of Veterinary Inspection); or

(IV) Move directly from a herd of origin that has one (1) complete negative herd test within one (1) year (date of test must be listed on the Certificate of Veterinary Inspection).

(D) Trichomoniasis Requirements.

1. All breeding bulls (excluding exotic bovines) entering the state shall be—

A. Virgin bulls not more than twenty-four (24) months of age as determined by the presence of both permanent central incisor teeth in wear or by breed registry papers; or

B. Be tested negative for Trichomoniasis with an official culture test or official Polymerase Chain Reaction (PCR) test by an approved diagnostic laboratory within thirty (30) days prior to entry into the state.

(I) Bulls shall be tested three (3) times not less than one week apart by an official culture test or one (1) time by official PCR test prior to entering Missouri.

(II) Bulls shall be identified by official identification at the time the initial test sample is collected.

(III) Bulls that have had contact with female cattle subsequent to testing must be retested prior to entry.

2. If the breeding bulls are virgin bulls, less than twenty-four (24) months of age, they shall be—

A. Individually identified by official identification; and

B. Be accompanied with a breeder's certification of virgin status signed by the breeder or his representative attesting that they are virgin bulls.

C. The official identification number shall be written on the breeder's certificate.

3. A Certificate of Veterinary Inspection listing official identification and test performed, date of test, results, and laboratory, if testing is required.

4. Bulls going directly to slaughter are exempt from Trichomoniasis testing.

(4) [Required Testing for] Swine.

(A) [All swine (except slaughter swine) presented to a market/sale must be officially eartagged, tattooed or backtagged, or identified by another approved device, and inspected for signs of infectious or contagious disease, and must be identified to the farm of origin and the market/sale must keep these records for one (1) year. All sows and boars sold for slaughter are to be individually identified by backtag, eartag or tattoo, or other approved device at first point of concentration.] Swine that arrive at a licensed Missouri market/sale are classified as follows:

1. Commercial swine—swine that are continuously managed and have adequate facilities and practices to prevent exposure to feral swine;

2. Feral swine—swine that are free roaming or Russian and/or Eurasian that are confined. This includes javelenas and peccaries; and

3. Transitional swine—swine raised on dirt or that have reasonable opportunities to be exposed to feral swine.

(B) [Market-to-market movement of swine into and within Missouri is prohibited, except to slaughter-swine-only markets/sales.] All swine (except slaughter swine) presented to a licensed Missouri livestock market/sale must be individually identified by official eartag as defined by Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, tattooed, backtagged, or identified by any other means of permanent identification approved by the state veterinarian, veterinarian inspected for signs of infectious or contagious disease, and must be identified to the farm of origin. This rule does not incorporate any subsequent amendments or additions. The market/sale must keep these records for one (1) year. All sows and boars sold for slaughter are to be individually identified (official eartag, tattooed, or backtagged, or identified by any other means of permanent identification approved by the state veterinarian), at the first point of concentration.

(C) [All swine bought at a market/sale consigned to a farm or premises will be quarantined to the point of destination for a minimum of thirty (30) days.] Market-to-market movement of swine into and within Missouri is prohibited, except to slaughter-swine-only markets/sales.

(D) [Swine offered for sale that fail to pass veterinary inspection due to sickness or signs of infection with a contagious, infectious or communicable disease shall either—

1. Return to the farm of origin under quarantine. Quarantined animals not amenable to treatment shall remain under quarantine until released for slaughter; or

2. Go directly to slaughter. Animals sold for slaughter must be identified and shipped on a VS Form 1-27 shipping permit.] All commercial swine bought at a market/sale consigned to a farm or premises will be quarantined to the point of destination for a minimum of thirty (30) days.

(E) [Feeder Swine. All feeding swine entering Missouri that are exchanged, bartered, leased or sold through a Missouri livestock market/sale must originate from either—] Swine offered for sale that fail to pass veterinary inspection due to sickness or signs of infection with a contagious, infectious, or communicable disease shall either—

1. [A state classified as Stage III, IV, or V in the National Pseudorabies (PRV) Eradication Plan] Return to the farm of origin under quarantine. Quarantined animals not amenable to treatment shall remain under quarantine until released for slaughter; or

2. [A pseudorabies monitored herd in a state classified as Stage II in the National Pseudorabies (PRV) Eradication Plan] Go directly to slaughter. Animals sold for slaughter must

be identified and shipped on a VS Form 1-27 shipping permit.

(F) All breeding swine (regardless of age) *must be tested negative for brucellosis and pseudorabies within thirty (30) days before they are presented for exchange, barter, lease or sale at a livestock market/sale, or originate from a validated brucellosis-free herd or validated swine brucellosis-free state and a qualified negative pseudorabies herd or from a state classified as Stage IV or V in the National Pseudorabies (PRV) Eradication Plan. Documentation showing herd numbers and current herd test dates must be provided to the market/sale veterinarian for animals to be accepted. Missouri origin breeding swine are to be quarantined for a thirty (30)-day period. Imported breeding swine shall be quarantined until a negative retest for brucellosis and pseudorabies is obtained. This retest shall not be fewer than thirty (30) nor more than sixty (60) days after entry] that arrive at a licensed Missouri livestock market/sale must originate from a validated brucellosis-free state or validated brucellosis-free herd and a state classified as stage V in the National Pseudorabies (PRV) Eradication Plan or from a qualified negative pseudorabies-free herd.*

[1. A retest must be completed on all imported breeding swine that do not originate from a USDA-classified swine brucellosis- and pseudorabies-free state or country.

2. Breeding swine originating from USDA-classified swine brucellosis- and pseudorabies-free states or countries must be tested as follows: in shipments of one to nine (1-9) head, a retest is required of all animals; in shipments of ten to thirty-five (10-35) head from the same herd of origin, retest is required of ten (10) animals; in shipments over thirty-five (35) head from the same herd of origin, retest is required on thirty percent (30%), up to a maximum of thirty (30) animals.]

(G) Movement Other than Commercial Swine.

1. Feral (including Eurasian, Russian, javalenas, and peccaries) swine may only move from a farm of origin directly to an approved slaughter or to an approved slaughter-only market.

2. Transitional swine may move only to a licensed market/sale or to slaughter.

A. Feeder pigs from transitional swine herds may move from farm of origin to a market to be inspected and officially identified by official eartag and then moved from the market under quarantine to be finished for slaughter.

(5) [Required Testing and Handling of] Equidae (Including Exotic Equine, Donkeys, Asses, Burros, and Zebras).

(B) All *equidae* presented at any licensed market/sale for the purpose of change of ownership, not having proof of an official negative Equine Infectious Anemia (EIA) test within the previous twelve (12) months, shall have blood samples for EIA testing collected before the sale at the seller's expense.

1. In a licensed livestock market/sale where the veterinarian has an approved EIA testing laboratory, EIA tests will be run prior to the sale. Test positive suspect equids will be identified by **microchip** and returned to the owner's premises under quarantine **and isolated at least two hundred (200) yards from any other equidae** pending test confirmation, or the owner may sell that animal directly to slaughter accompanied by a VS Form 1-27 shipping permit.

2. In markets where on-site EIA testing is not available, the equids will sell test-pending, identified as such by a red hip tag (furnished by the Missouri Department of Agriculture) recorded on an Equine Sales & Test Record form (MO 350-1138) and sold under quarantine to the buyer. This quarantine restricts the buyer from taking the equids out of Missouri and from another change of ownership[,] until the test results are received.

(C) *Equidae* presented with current, negative EIA test chart (VS Form 10-11 [*or later revision*]) or any officially recognized federal/state EIA test chart) will be sold with a white hip tag (furnished

by the Missouri Department of Agriculture) and recorded on an Equine Sales & Test Record form (MO 350-1138). The seller must present an original EIA test chart; no photocopies or facsimiles will be accepted. The EIA test must have been done within the previous twelve (12) months, and **the VS Form 10-11 or any officially recognized federal/state EIA test chart** must be accurately completed, showing graphic descriptions of all markings needed for identification or **imprinted photograph on any officially recognized federal/state EIA test chart**. Verification of each animal to the EIA test chart shall be the responsibility of the market veterinarian. If in the opinion of the market veterinarian the information shown on the EIA test chart does not match the animal presented or the test chart has been altered, the market veterinarian shall confiscate the form, mark the document "invalid," and the animal(s) will be tested at the seller's expense prior to the sale.

(D) No *equidae* will be released from any licensed market/sale without a current, negative EIA test; a test-pending quarantine, or released on a VS Form 1-27 shipping permit returning to the seller's premises. *[Once] One* copy of all quarantines and Equine Sales & Test Record forms (MO 350-1138) completed for each sale will be sent to the state veterinarian's office **in a format approved by the state veterinarian**.

[(G) Equidae with signs of fistulous withers or poll evil will be sold directly to slaughter.]

(6) [Required Testing and Handling of] Sheep and Goats (Including Exotic Sheep, Goats, and Antelopes).

(B) Sheep and goats *[are required to have permanent official identification to be in compliance with the Scrapie Eradication Uniform Methods and Rules Effective October 1, 2003, which is hereby incorporated by reference and made a part of this rule.] (including exotic sheep, goats, and antelopes)* regardless of age or gender must be individually identified by an official scrapie eartag as defined in Title 9, *Code of Federal Regulations*, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov> for sheep and goats or electronic implant for goats only identifying them to the flock or herd of origin or any other means of permanent identification approved by the state veterinarian. This rule does not incorporate any subsequent amendments or additions.

[1. All breeding sheep regardless of age.

2. All sheep over eighteen (18) months of age.

3. Breeding goats, except slaughter goats.]

(C) *[Eligible s]* Sheep and goats that come into the market without official identification must have official identification applied at the market prior to commingling with other animals, and prior to sale.

(D) Any official identification that is applied by the market veterinarian or market personnel must maintain the following records:

1. The date tagged./.;

2. The number of sheep and *[the number of]* goats identified

(including exotic sheep, goats, and antelopes)/.;

3. The serial numbers applied./.;

4. The name and address of the owner of the flock of origin./.;

5. If the person who currently owns the animals is different from the owner of the flock or herd of origin or birth, the current owner's name and address **and the owner of the flock or herd of origin, if known./.;**

6. If the owner of the flock of birth is different from the owner of the flock of origin, and if the animals were born after January 1, 2002, the name and address of the owner of the flock of birth, if known./.; **and**

7. All records of official identification must be maintained for five (5) years.

(7) [*Ratites (Including, but not limited to, Ostrich and Emu). All ratites must be individually identified by a means approved by the Missouri state veterinarian on a certificate of veterinary inspection. In addition, ratites imported into Missouri presented for sale at a livestock market/sale must obtain an entry permit.*] Poultry and Waterfowl.

(A) Out-of-state live poultry (except those consigned directly to slaughter) shall be accompanied by an official Certificate of Veterinary Inspection or a VS Form 9-3 (see 2 CSR 30-2.040). If a VS Form 9-3 is used, a signed and dated owner/shipper statement must be included stating that, to his/her best knowledge, the birds are healthy. Poultry known to be infected with pullorum or typhoid that are consigned directly to slaughter must be identified as such by the consignor.

(B) Out-of-state live poultry entering Missouri must be tested negative for pullorum-typhoid within the past ninety (90) days or originate from a flock approved by the National Poultry Improvement Plan (NPIP) or an equivalent program which has been tested within the past twelve (12) months with no change of ownership.

(C) All hatching eggs must be accompanied by an official Certificate of Veterinary Inspection certifying the eggs to be from pullorum-free flocks or by a VS Form 9-3.

(D) Out-of-state poultry and hatching eggs moving through a Missouri livestock market/sale require an entry permit prior to shipment. Annual entry permits shall be issued by the department to participants in the NPIP or an equivalent program. Producers not approved by NPIP or an equivalent program must request a permit with each shipment.

(8) [*Miscellaneous and Exotic Animals. All exotic animals presented for exchange, barter, lease or sale at a licensed livestock market/sale must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.*] Captive Cervids.

(A) [*Exotic bovids eight (8) months of age and over must have a negative brucellosis test and a negative tuberculosis test within thirty (30) days prior to arrival at the market/sale. Exotic bovids include Bos gaurus (Indian bison, Gaur) Bos javanicus (Banteng), Bos sauveli (Kouprey), Bos grunniens (domesticated yak), Bubalus bubalis (water buffalo), Bubalus mindorensis (Tamarau), Bubalus quarlesi (Mountain Anoa), Bubalus depressicornis (Lowland Anoa) and Snycerus caffer (buffalo group).*] Captive cervids, including but not limited to, elk, elk-hybrids, red deer, roe deer, white-tailed deer, mule deer, sika deer, moose, reindeer, mutjac, and fallow deer, that are bartered, exchanged, gifted, leased, or sold that arrive at any licensed Missouri livestock market/sale must meet the following requirements:

1. Captive or farm cervids, regardless of age, must be veterinary inspected, individually identified by official eartag as defined in Title 9, *Code of Federal Regulations*, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States, Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, or other means of permanent identification approved by the state veterinarian. This rule does not incorporate any subsequent amendments or additions.

2. An entry permit is required.

(B) [*Exotic cattle must meet the same brucellosis requirements as domestic cattle. These animals eight (8) months of age and over must be tested for tuberculosis within thirty*

(30) days prior to arrival at the market/sale] Brucellosis Requirements.

1. All sexually intact animals six (6) months of age and over not in a status herd or under quarantine for brucellosis must test negative for brucellosis within ninety (90) days prior to arrival at a Missouri livestock market/sale except—

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may move through a Missouri livestock market/sale on herd status without additional testing provided the certified herd number and current herd test date is listed on the Certificate of Veterinary Inspection;

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age and older must test negative for brucellosis within ninety (90) days prior to arrival at a Missouri livestock market/sale.

(C) [*Camels, llamas, alpaca and others of that group must be officially identified by tattoo, microchip, eartag or other approved device and be listed individually on a Certificate of Veterinary Inspection*] Tuberculosis Requirements.

1. Captive cervids less than six (6) months of age, not known to be affected with or exposed to tuberculosis and not in a status herd, must have one (1) negative tuberculosis test, not less than ninety (90) days prior to arrival at a livestock market/sale in Missouri, using the single cervical method. The negative test date must be listed on the Certificate of Veterinary Inspection. Captive cervids must have been isolated from other captive cervids during the testing period.

2. Captive cervids, six (6) months of age and older, not known to be affected with or exposed to tuberculosis and not in a status herd, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to arrival at a Missouri livestock market/sale. Both negative test dates must be listed on the Certificate of Veterinary Inspection. Captive cervids must have been isolated from other captive cervids during the testing period.

3. Movement from tuberculosis status herds.

A. Accredited herd—captive cervids originating from accredited tuberculosis-free cervid herd may move through a market/sale on herd status without additional testing provided the accredited herd number and original anniversary date is listed on the Certificate of Veterinary Inspection.

B. Qualified herd—captive cervids originating from a qualified herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.

C. Monitored herd—captive cervids originating from a monitored herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.

D. Captive cervids less than twelve (12) months of age that originate from and were born in qualified or monitored herds may move through a market/sale without further tuberculosis testing, provided that they are accompanied by a Certificate of Veterinary Inspection showing official individual identification (official eartag or any other means of permanent identification approved by the state veterinarian) stating that such captive cervids originated from such herds and have not been exposed to captive cervids from a lower status herd.

(D) [*Captive cervids from out-of-state that arrive at a market/sale in Missouri must have an entry permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. Captive cervids from out-of-state that arrive at a market/sale must be in compliance with the guidelines as incorporated by reference to the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999 and Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998. Movement of Missouri*

origin captive cervids must be in compliance with Missouri's intrastate movement regulations.] **Chronic Wasting Disease.**

1. [All sexually intact animals six (6) months of age or older, not under quarantine and not affected with brucellosis, must test negative for brucellosis within thirty (30) days prior to arrival at the market/sale, except:] **Captive cervids will not be allowed to move through a livestock market/sale if, within the last five (5) years, the animals—**

A. Originate from an area or has been in an area that has been reported as a Chronic Wasting Disease (CWD) endemic area; or

B. Originate from a CWD positive captive herd.

[A. *Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may be sold through a market/sale on the current herd number and test date;*

B. *Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to arrival at the market/sale.*

2. [Captive cervids not known to be affected with or exposed to tuberculosis, and not in a status herd as defined in the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to arrival at the market/sale.] **Elk, elk-hybrids, red deer, roe deer, sika deer, white-tailed deer, mule deer, and moose twelve (12) months of age must be enrolled in a CWD program for at least five (5) years prior to moving through a Missouri livestock market/sale. Other cervids, including but not limited to reindeer, mutjac, and fallow deer, must have participated in a surveillance program recognized by the state-of-origin prior to arrival at a Missouri livestock market/sale. Original anniversary date must be listed on the Certificate of Veterinary Inspection.**

3. [Movement from status herds.] **Captive cervids moving between publicly-owned Association of Zoos and Aquariums (AZA)-accredited zoos must meet the CWD surveillance program requirements.**

[A. *Accredited herd—captive cervids originating from accredited tuberculosis-free cervid herd as defined by the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, may be sold through a market/sale on the current herd number and test date.*

B. *Qualified herd—captive cervids originating from a qualified herd as defined by the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.*

C. *Monitored herd—captive cervids originating from a monitored herd as defined by the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.*

D. *Captive cervids less than twelve (12) months of age that originate from and were born in qualified or monitored herds may be sold through a market/sale without further tuberculosis testing, provided that they are accompanied by a certificate stating that such captive cervids originated from such herds and have not been exposed to captive cervids from a lower status herd.*

4. **Captive cervids from an area that has been reported as a chronic wasting disease (CWD) endemic area or any cervid that has been in an endemic area in the last five (5) years will not be allowed to move through a Missouri livestock market/sale.**

5. **Elk, elk-hybrids and mule deer from all states must have participated in a surveillance program for at least three (3) years prior to moving through a Missouri livestock market/sale. Other captive cervids other than white-tailed deer must have participated in a surveillance program recognized by the state of origin prior to moving through a Missouri livestock market/sale.**

6. **White-tailed deer from all states must have participated in a surveillance program for at least two (2) years prior to entering Missouri. Other captive cervids must have participated in a surveillance program recognized by the state of origin prior to entering Missouri.**

7. **All captive white-tailed deer that enter Missouri with a two (2)-year status in a CWD surveillance program and remain in Missouri at the time of death must be tested for CWD.**

(E) *Exotic goats, sheep and antelope. No tests are required on these animals.*

(F) *Exotic equine, donkeys, asses, burros and zebras must meet domestic equine requirements.*

(G) *Feral swine, javalena, and peccaries must be in compliance with domestic swine requirements.*

(H) *Elephants (Asiatic, African) must be tested negative for tuberculosis within one (1) year prior to exhibition.*

(I) *Importation of skunks and raccoons into Missouri is prohibited by the Missouri Wildlife Code (3 CSR 10-9).]*

(10) **Alpacas, Camels, and Llamas.** Alpacas, camels, llamas, and others of that group exchanged, bartered, sold, leased, or relinquished at a licensed livestock market/sale in Missouri must be veterinarian inspected, accompanied by a Certificate of Veterinary Inspection showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate description of animal(s) such as sex, age, weight, and coloration, and must be individually identified by an official eartag as defined in Title 9, *Code of Federal Regulation, Part 71*, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website <http://bookstore.gpo.gov>, microchip, or other method approved by the state veterinarian. This rule does not incorporate any subsequent amendments or additions.

(11) **Ratites (Including But Not Limited to Ostrich, Rheas, and Emus).** All ratites must be veterinarian inspected, individually identified by official identification (leg band, microchip, wing band, legible tattoo, or any other means of permanent identification approved by the state veterinarian), and listed on a Certificate of Veterinary Inspection. In addition, ratites entering Missouri for sale at a licensed livestock/market must obtain an entry permit.

(12) **Miscellaneous and Exotic Animals.** All exotic animals presented for exchange, barter, lease, or sale at a licensed livestock market/sale must be veterinarian inspected, individually identified by official identification (official eartag, brand, tattoo, or any other means of permanent identification approved by the state veterinarian), and accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, and coloration.

(A) *Elephants (Asiatic, African) must be tested negative for tuberculosis within one (1) year prior to movement; test results must be noted on the Certificate of Veterinary Inspection.*

(B) *Importation of skunks and raccoons into Missouri is prohibited by the Missouri Wildlife Code (3 CSR 10-9).*

AUTHORITY: section 277.160, RSMo 2000. Original rule filed June 15, 1990, effective Dec. 31, 1990. For intervening history, please consult the Code of State Regulations. Amended: Filed June 12, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102, by facsimile at (573) 751-6919, or via email at Taylor.Woods@mda.mo.gov. Comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 3—Higher Educational Residency Determination**

PROPOSED AMENDMENT

6 CSR 10-3.010 Determination of Student Residency. The commissioner of higher education is amending all sections, adding new sections (3) and (10), and renumbering as needed.

PURPOSE: This amendment distinguishes between the residency requirements pertaining to in-state tuition eligibility and state student financial aid eligibility. It also adds requirements addressing loss of residency.

(1) Definitions.

(A) Academic year is the period from July 1 of any year through June 30 of the following year.

[(A)](B) Adult student shall mean any student having attained the age of twenty-one (21) years.

(C) Continuous enrollment shall mean enrollment in a Missouri institution in at least one (1) credit or clock hour or the equivalent in at least one (1) semester, excluding summer terms, each academic year.

[(B)](D) Coordinating board or board shall mean the Coordinating Board for Higher Education created by section 173.005, RSMo.

(E) Dependent student shall mean, for the purposes of financial aid eligibility, any student who is not an independent student.

[(C)](F) Domicile shall mean presence within a state with an intent of making the state a permanent home for an indefinite period.

[(D)](G) Emancipated minor student shall mean any student not having attained the age of twenty-one (21) years and who is not under the care, custody, and support of an individual or individuals having legal custody.

(H) Independent student shall mean, for the purposes of financial aid eligibility, any student who qualifies as an independent student under section 480(d) of the Higher Education Act of 1965, as amended.

[(E)](I) Residency or resident status shall mean that status which is achieved when sufficient proof of a domicile within a state is presented.

[(F)](J) Unemancipated minor student shall mean any student not having attained the age of twenty-one (21) years, and under the care, custody, or support of the individual or individuals having legal custody of the students.

(2) Adult Students. For purposes of the determination of fee charges, [If] if an adult student, not a resident, shall present sufficient proof of the establishment of a domicile within the state of Missouri, this student shall be granted the resident status at the first enrollment following the establishment of the domicile.

(3) Independent Student. For purposes of financial aid eligibility, if an independent student, not a resident, shall present sufficient proof of the establishment of a domicile within the state of Missouri, this student shall be granted resident status at the first enrollment following the establishment of the domicile.

[(3)](4) Unemancipated Minor Students.

(A) The domicile of an unemancipated minor or a dependent student is presumed to be that of the individual or individuals having legal custody of the student.

(B) If those having legal custody of the unemancipated minor or dependent student establish a Missouri domicile, that student shall be granted resident status at the first enrollment following the establishment of the Missouri domicile.

(C) Once unemancipated minor or dependent students have established resident status under this rule, they may continue to qualify for resident status so long as they remain continuously enrolled, excluding summer terms, in a Missouri institution of higher education, even if the individual or individuals having legal custody of the unemancipated minor or dependent students cease to hold Missouri resident status or the students become adult or independent students.

[(4)](5) Emancipated Minor Students.

(A) The domicile of emancipated minor students shall be determined as if they were adults.

(B) A minor may become emancipated through marriage, formal court action, abandonment, or positive action of alienation on the part of the minor. In all instances, alienation from care, custody, and support shall be complete and the burden of satisfactory proof of emancipation shall be that of the minor student.

(C) Mere absence of the student from the domicile of the individual or individuals having legal custody of that minor student shall not constitute proof of emancipation.

(D) In no instance shall a minor student be eligible for emancipation when that student is taken as an income tax deduction by a second party other than a spouse.

[(5)](6) Members of the Military Forces.

(A) Students shall neither gain nor lose resident status solely as a consequence of military service.

(B) For the purposes of student resident status, military personnel, when stationed within the state of Missouri pursuant to military orders, their spouses, and unemancipated minor or dependent children shall be regarded as holding Missouri resident status. However, a member of the military forces who is specifically assigned, under orders, to attend a Missouri institution of higher education as a full-time student, shall be classified, along with his/her spouse and unemancipated minor or dependent children, as if they had no connection with the military forces.

[(6)](7) Noncitizens of the United States.

(A) Students who are not citizens of the United States must possess resident alien status, as determined by federal authority, prior to consideration for resident status.

(B) Aliens present within Missouri as representatives of a foreign government or at the convenience of the United States or Missouri governments and holding G visas shall be entitled to resident status, except for those who are government-funded students.

(C) Aliens and their dependents holding A or L visas may be granted resident status if determined to be individually designated as representatives of their governments and whose education is not government-funded.

[(7)](8) Public Community [Junior] College Residency.

(A) Missouri public community [junior] college districts have legal geographic boundaries within the state and only residents of each district are eligible for the in-district student fee charge.

(B) For purposes of establishing district residency, a Missouri resident who resides out-of-district shall meet the same criteria as set forth in this rule for establishing Missouri residency by a person not a resident of Missouri. However, Missouri residency is the only residency requirement germane to student eligibility for financial aid programs restricted to Missouri residents.

[(8)](9) [Factual Criteria in] Determination of Resident Status.

(A) Attendance at an institution of higher education shall be regarded as a temporary presence within the state of Missouri; therefore, a student neither gains nor loses resident status solely by such attendance.

(B) The burden of proof of establishing eligibility for Missouri resident status shall rest with the student.

(C) In determining resident status for the state of Missouri, either of the following shall be sufficient proof of domicile of a person and his/her [dependents] **unemancipated minor or dependent children** within the state of Missouri:

1. Presence within the state of Missouri for a minimum of the twelve (12) immediate past, consecutive months coupled with proof of intent to make the state of Missouri a permanent home for an indefinite period; or

2. Presence within the state of Missouri for the primary purpose of retirement, full-time employment, full-time professional practice, or to conduct a business full-time.

(D) In determining whether [a] **an adult, emancipated minor, or independent student, or the individual or individuals having legal custody of an unemancipated minor or dependent student**, holds an intent to make the state of Missouri a permanent home for an indefinite period, the following factors, although not conclusive, shall be given heavy weight: continuous presence in the state of Missouri during those periods not enrolled as a student; presence within the state of Missouri upon marriage to a Missouri resident and the maintenance of a common domicile with the resident spouse; substantial reliance on sources within the state of Missouri for financial support; former domicile within the state and maintenance of significant connections while absent; and ownership of a home within the state of Missouri. The twelve (12)-month period of presence within the state, as stipulated in paragraph [(8)](9)(C)1. of this rule, in and of itself, does not establish resident status in the absence of the required proof of intent.

(E) The following factors shall be given less weight than those in subsection [(8)](9)(D) and include: Voting or registration for voting; part-time employment; lease of living quarters; a statement of intention to establish a domicile in Missouri; automobile registration or operator's license obtained in Missouri; and payment of income, personal, and property taxes in Missouri. The factors listed in this subsection have applicability only as they support the intent to make the state of Missouri a permanent home for an indefinite period.

(F) Resident status is one criterion of eligibility for student grant awards administered by the coordinating board. There are additional criteria of eligibility and the establishment of resident status by a student does not guarantee that the student will be awarded a student grant.

(G) The waiver [of] or forgiveness of a nonresident student fee, in full or in part, shall have no bearing on the residency status of a student and shall not be a basis for classification of a nonresident student as a resident.

(H) For those nonresidents who pay Missouri income tax, the nonresident student shall receive a credit against the nonresident student fee in an amount equal to the actual Missouri income tax paid for the previous calendar year except that the remaining fee obligation shall not be less than the amount of the resident student fee. Unemancipated minor students are eligible by reason of payment of

Missouri income tax by the nonresident individual or individuals having legal custody of students. Students entering in January shall be regarded as entering in the immediately preceding fall for purposes of determining previous calendar year. For students entering after January, previous year means immediate past calendar year.

(10) Determination of Loss of Residency Status.

(A) **An adult, emancipated minor, or independent student will lose Missouri residency status twelve (12) consecutive months after establishing a domicile outside of the state of Missouri, unless the absence is for the purpose of attending an institution of higher education in another state and the student remains in compliance with subsections (9)(C)-(E) of this administrative rule.**

(B) **An unemancipated minor or dependent student will lose Missouri residency status:**

1. **Twelve (12) consecutive months after the individual or individuals having legal custody of that student establish a domicile outside of the state of Missouri, except as provided for in subsection (4)(C) of this administrative rule; or**

2. **If the individual or individuals having legal custody of that student establish a domicile outside of the state of Missouri more than twelve (12) consecutive months before the student's first enrollment at a postsecondary education institution.**

[(9)](11) Administrative and Compliance.

(A) Each institution shall establish procedures for the determination of institutional decisions in accordance with this rule. These procedures shall adhere to the guidelines set forth in this rule and to the concepts of procedural fairness and reasonableness to the students, to the institution and to the taxpaying public of the state. The procedures shall provide for at least two (2) levels of institutional appeal review and the last stage of the procedure shall be considered final by the institution.

(B) Compliance with the guidelines as set forth in this rule is required of institutions of higher education in order to be determined as eligible institutions under student financial aid programs administered by the coordinating board and for which student eligibility is restricted to residents. *[Institutions must be in compliance by August 1, 1986 and earlier compliance is encouraged.] For financial aid purposes, institutions may exercise professional judgment in residency determinations for documented exceptional circumstances.*

(C) On complaint of any student or other indication of possible institutional noncompliance with the guidelines set forth in this rule, the coordinating board may review the eligibility of an institution for student financial aid programs, or any other funds administered by the board and may take such actions or make such recommendations relating to the institution's eligibility as the coordinating board deems appropriate. These actions shall be consistent with any other administrative rules the board has established pertaining to the review of institutional eligibility.

AUTHORITY: sections 173.005.2(5), RSMo Supp. 2008 [and 173.140, RSMo 1986]. Original rule filed Aug. 7, 1978, effective March 17, 1979. Rescinded and readopted: Filed July 3, 1985, effective Aug. 1, 1986. Amended: Filed Dec. 16, 1988, effective April 1, 1989. Amended: Filed June 15, 2009.

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

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

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

Missouri Department of Higher Education, Financial Assistance, Outreach and Proprietary School Certification, Kelli Reed, Student Assistance Associate, 3515 Amazonas Drive, Jefferson City, MO 65109. 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 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 11—Procurement of Supplies**

PROPOSED AMENDMENT

7 CSR 10-11.010 Definition of Terms. The Missouri Highways and Transportation Commission is amending section (1), (2), (3), (4), (6), (7), and (10) through (31); adding new sections (8), (9), (10), and (24); deleting sections (8), (9), (20), and (32); and renumbering as needed.

PURPOSE: This proposed amendment will provide definitions of terms used in this chapter.

(1) Award—An action taken by **the director or his/her designee on behalf of the** commission on successful *[purchasing]* bids/proposals.

(2) Bid/**Proposal**—An offer to perform a contract for work and labor or to supply materials, goods, or services at a specified price; also may include detailed information about services to be furnished.

(3) Bidder/**Offeror**—A person or entity submitting a solicitation document to department.

(4) Bond—A guaranty agreement that contains the promise of a third party to fulfill the bidder's/**offeror's** responsibilities in the event that the bidder/**offeror** is unable or unwilling to fulfill those responsibilities. The *[department]* **commission** may require the following:

(A) Bid/**Proposal** bond—**A financial guarantee that the bidder/offeror, if selected, will accept the contract as bid/proposed.** Protects **the** commission against loss due to bidder's/**offeror's** refusal to enter into a contract with **the** commission/. *May be used as performance security*;

(B) Payment bond—**A financial guarantee that the contractor will pay his/her/its workers, suppliers, and subcontractors on a commission project.** Assures **the** commission that persons supplying labor or material in connection with a project will be paid; and/or

(C) Performance bond—**A financial guarantee that the contractor will complete performance of the project.** Protects **the** commission against loss due to the inability or refusal of a *[bidder]* **contractor** to perform his/her/its contract.

(6) Certification—The process in which the bidder/**offeror** swears that the information *[s/he or it]* **he/she/it** has provided is correct.

(7) Commission—The Missouri Highways and Transportation Commission. *[The entity defined in the provisions of 226.010, RSMo, which has the sole authority to sue and be sued on behalf of the Missouri Department.]*

[(8) Default—The omission or failure of a bidder to perform a contractual duty.]

[(9) Demurrage—The amount payable or credited to either bidder or department for delivery delays.]

(8) Contract—An offer to perform a contract for work and labor or to supply materials, goods, or services at a specified price; also may include detailed information about services to be furnished.

(9) Contractor—A successful bidder/offeror to whom a contract has been awarded by the commission.

(10) Debarment—An exclusion from contracting with the commission for an indefinite period of time.

[(10)](11) Department—The Missouri *[Highway and Transportation]* Department of Transportation.

[(11)](12) Director—The director of *[the Division of Equipment and Procurement]* **the General Services Division of the department** or a designated representative of the director.

[(12)](13) Division—The Division of *[Equipment and Procurement]* **General Services** within the Missouri *[Highway and Transportation]* Department of Transportation.

[(13)](14) Domicile—The state in which a business is incorporated.

[(14)](15) Emergency—A situation which creates a serious and obvious threat to the public health, welfare, or safety, or creates a serious and obvious threat to the operation of *[state government]* **the department** in executing its legal responsibilities to the public or for the persons or property in its legal care, custody, or control, or a combination of these.

[(15)](16) Invitation for bid (IFB)—A formal request for sealed bids which are solicited based upon specifications for which bids must be submitted.

[(16)](17) Missouri firm—A corporation which is incorporated in Missouri, or in the case of a partnership, joint venture, or sole proprietorship, a business which has its principal place of business in Missouri.

[(17)](18) Multiple award—A **purchase order or** contract awarded to two (2) or more bidders/**offerors required** to meet the needs of the department. *[The term is applicable in the following two (2) situations:*

(A) Volume of business is so large or the geographical distances are so great that more than one (1) bidder is necessary to serve the state's needs; or

(B) Differences between various bidders' versions of a product are so significant that it is useful to have a contract with a bidder of each product.]

[(18)](19) Nonresponsive bid/proposal—A bid or proposal which does not fulfill all terms, conditions, and specifications outlined in the solicitation document.

[(19)](20) Notice to proceed—A document sent by **the** department that gives notice to **the bidder/offeror** to begin performance on its contract.

[(20) Proposal security—*A guarantee, in the form of an irrevocable bond or deposit, that the bidder, if selected, will accept the contract as bid.]*

(21) Purchase—Includes rental or leasing of any equipment, articles, or supplies.

(22) Purchase order—A document issued by department, authorizing bidder/**offeror** to deliver goods.

(23) Responsible bid/proposal—Bid/proposal which complies with all terms, conditions, and specifications outlined in the solicitation document.

(24) Request for bid (RFB)—A formal request for sealed bids which is solicited and based upon specifications for which bids must be submitted. Bids must be submitted by a specific date and time.

[(24)](25) Request for proposal (RFP)—A formal request for sealed proposals which is solicited and based on scope of work requirements. Proposals must be submitted by a specific date and time.

[(25)](26) Request for quotation (RFQ)—An informal request for either bids or proposals based upon either a specification or a scope of work requirement. Establishes a target date and time by which quotations must be submitted.

[(26)](27) Solicitation—A process of notifying prospective bidders/offerors that the department wishes to receive bids or proposals to provide goods, services, or a combination of goods and services. The term includes RFQ, RFP, IFB, and any other procurement method which may be used.

[(27)](28) State—The state of Missouri.

[(28)](29) Substitution—A shipment of an item that materially conforms to the specifications but is technically different from the item bid.

[(29)](30) Supplies—Materials, equipment, contractual services, and all articles or things.

[(30)](31) Suspension—An exclusion from contracting with the [department] **commission** for a temporary period of time.

[(31)](32) Vendor—Any individual, partnership, company, corporation, or joint venturer providing [materials,] supplies [or services] to the [department] **commission**.

[(32) Witness—A person who has no interest in the outcome of the drawing of lots.]

AUTHORITY: sections 226.020, 226.130, 227.210, and 227.030, RSMo [1986] 2000. Original rule filed April 5, 1993, effective Oct. 10, 1993. Amended: Filed June 5, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 11—Procurement
PROPOSED RESCISSION**

7 CSR 10-11.020 Procedures for Solicitation, Receipt of Bids and Award of Contract. This rule described procedures for soliciting and receiving bids and for awarding contracts for the division.

PURPOSE: This rule is being rescinded and readopted in order to more clearly define the Missouri Department of Transportation's procurement procedures.

AUTHORITY: sections 226.020, 226.130, and 227.030, RSMo 1986. Original rule filed April 5, 1993, effective Oct. 10, 1993. Rescinded: Filed June 5, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 11—Procurement of Supplies**

PROPOSED RULE

7 CSR 10-11.020 Procedures for Solicitation, Receipt of Bids, and Award and Administration of Contracts

PURPOSE: This rule prescribes procedures for soliciting and receiving bids and for awarding contracts.

(1) When the procurement is estimated to be less than twenty-five thousand dollars (\$25,000), an informal method of solicitation may be utilized. Informal methods of procurement may include request for quotation (RFQ), telephone quotes, etc.

(A) The division will establish a target date and time for submission of quotations.

(B) The division may proceed with the evaluation and award anytime after the expiration of the target date and time. Quotations received after the target date and time, but before the award of a contract, may be included in the evaluation at the discretion of the division.

(2) When the procurement is estimated to be twenty-five thousand dollars (\$25,000) or more, a formal method of solicitation must be utilized. Formal competitive bidding shall be accomplished by utilizing an invitation for bid (IFB) or request for bid (RFB), etc.

(A) Formal bids must be received in the division or a secured electronic database in a sealed format by the time set for the opening of bids.

(B) Formal bids received after the time set for the opening of bids shall be considered late and will not be opened.

(C) Bids received in response to an IFB/RFB shall be available for public review after the bid opening during regular working hours.

(D) When the division decides in its discretion that all bids are unacceptable and circumstances do not permit a rebid, negotiations may be conducted by the division with only those bidders who submitted bids in response to the IFB/RFB. No additional bidders shall

be solicited. Upon determination that negotiations will be conducted, the bids and related documents will be closed to public viewing in accordance with section 610.021, RSMo.

(3) When the procurement requires the utilization of competitive negotiation, the formal request for proposal (RFP) solicitation method shall be utilized.

(A) Formal proposals must be received in the division or a secured electronic database in a sealed format by the time set for the opening of the proposals.

(B) Formal proposals received after the time set for the opening of bids/proposals shall be considered late and will not be opened.

(C) Proposals received in response to an RFP shall not be available for public review until after a contract is executed or all proposals are rejected.

(D) Offerors who obtain information concerning a competitor's proposal may be disqualified for consideration for a contract award.

(4) The division may waive the requirement of competitive bids or proposals for supplies when the division has determined in writing that there is only a single feasible source for the supplies. Immediately upon discovering that other feasible sources exist, the division shall rescind the waiver and proceed to procure the supplies through the competitive processes as described in this rule.

(A) A single feasible source exists when:

1. Supplies are proprietary and only available from the manufacturer or a single distributor; or

2. Based on past procurement experience, it is determined that only one (1) distributor services the region in which the supplies are needed; or

3. Supplies are available at a discount from a single distributor for a limited period of time.

(B) When the Single Feasible Source procurement method is utilized, the division shall use the following guidelines to support the Single Feasible Source determination:

1. The following guidelines may be utilized to determine if supplies can be purchased as a single feasible source due to being proprietary:

A. The parts are required to maintain validity of a warranty;

B. Additions to a system must be compatible with original equipment;

C. Only one (1) type of computer software exists for a specific application;

D. Factory authorized maintenance must be utilized to maintain validity of a warranty;

E. The materials are copyrighted and are only available from the publisher or a single distributor; or

F. The services of a particular provider are unique, e.g., entertainers, authors, etc.;

2. The following guidelines may be utilized if past procurement activity indicates that only one (1) bid has been submitted in a particular region. In these situations the division shall monitor the market for developing competition; and

3. The following guidelines may be utilized to determine if supplies may be purchased as a single feasible source due to being available at a discount for a limited period of time:

A. The discounted price must be compared to a price established through a reasonable market analysis; and

B. The discounted price should normally be at least ten percent (10%) less than the current contract or other comparable price. A discount of less than ten percent (10%) may be acceptable under appropriate market conditions. The discount should be compared to a price which, where feasible, should be no more than twelve (12) months old.

(C) On any single feasible source purchase where the estimated expenditure shall be five thousand dollars (\$5,000) or over, the division shall post notice of the proposed purchase. Where the estimated expenditure is twenty-five thousand dollars (\$25,000) or over, the

division shall also advertise its intent to make such purchase in such places as are most likely to reach prospective bidders or offerors and may provide such information through an electronic medium available to the general public at least five (5) days before the contract is to be let. Other methods of advertisement, however, may be adopted by the division when such other methods are deemed more advantageous for the supplies to be purchased. The requirement for advertising may be waived, if not feasible, due to the supplies being available at a discount for only a limited period of time.

(5) When conditions meet the criteria of an emergency situation as defined in 7 CSR 10-11.010, emergency procurement procedures may be utilized. The requirement for formal competitive bids or proposals may be waived. However, the emergency procurement should be made with as much informal bidding as practicable. Emergency procedures shall only be utilized to purchase those supplies which are necessary to alleviate the emergency.

(6) When circumstances dictate that it would be most advantageous, the division may purchase supplies from or in cooperation with another governmental entity.

(A) Supplies purchased from another governmental entity should be limited to those supplies which are provided directly by such entity.

(B) Supplies purchased in cooperation with another governmental entity may be purchased based on contracts established in accordance with that entity's laws and regulations.

(7) Regardless of the solicitation method utilized, the following procedures apply:

(A) The division shall develop standardized terms and conditions to be included with the solicitation documents;

(B) The division may request bids/proposals for new equipment employing the trade-in of used equipment. The solicitation document may request pricing with a trade-in and without a trade-in;

(C) The division may require bid/proposal, payment, and/or performance bond.

1. The acceptable form and amount of the bid/proposal bond shall be stipulated in the solicitation document.

2. The bid/proposal bond of unsuccessful vendors may be returned after the finalization of the award. If the successful vendor fails to accept the contract, the amount of the bid/proposal bond may be forfeited to the commission.

3. If a payment and/or performance bond is required, the bid/proposal bond of the successful vendor may be returned after the receipt of the payment and/or performance bond. The acceptable form and amount of the payment and/or performance bond shall be stipulated in the solicitation document. If the contractor fails to submit the payment and/or performance bond as required, the bid/proposal bond may be forfeited to the commission and the contract shall be void;

(D) In the event that the division receives a container which is not identifiable as a specific bid/proposal, an authorized person within the division may open the container to determine the contents. If the contents are determined to be a bid/proposal, the container will be resealed and the solicitation number, opening date, and time will be noted on the outside. The container will then be filed until the official time for opening;

(E) After the bid/proposal opening, a vendor may be permitted to withdraw a bid/proposal prior to award at the sole discretion of the division if there is a verifiable error in the bid/proposal and enforcement of the bid would impose an unconscionable hardship on the vendor. This withdrawal will be considered only after receipt of a written request and supporting documentation from the vendor. Withdrawal shall be the vendor's sole remedy for an error other than an obvious clerical error. Withdrawal of a bid/proposal may result in forfeiture of the bid/proposal bond;

(F) For bids/proposals with a value of twenty-five thousand dollars

(\$25,000) or more, bidders/offerors who can certify that goods or commodities to be provided in accordance with the contract are manufactured or produced in the United States or imported in accordance with a qualifying treaty, law, agreement, or regulation shall be entitled to a ten percent (10%) preference over bidders whose products do not qualify. Failure to provide a certification may result in forfeiture of any preference. The provisions in this subsection (7)(F) shall not apply to bids/proposals for goods or commodities funded by federal funds;

(G) In addition to cost, subjective judgment may be utilized in the evaluation of bids/proposals provided that the method is published in the solicitation document;

(H) The division may request samples for evaluation purposes. Any samples requested must be provided free of charge. Samples which are not destroyed by testing will be returned at the vendor's expense if return of the samples is stipulated in the vendor's bid/proposal. Samples submitted by a vendor who receives the award may be kept for the duration of the contract for comparison with shipments received;

(I) During the course of a solicitation, vendors may be required to demonstrate proposed products. Such demonstration shall be coordinated by the division;

(J) When bids are equal in all respects, any preferences shall be applied in accordance with applicable statute. If all such bidders or none qualify for the statutory preference, the contract shall be awarded by a formal drawing of lot. Whenever practical, the drawing will be held in the presence of the vendors who are considered equal. If this is not practical, the drawing will be witnessed by a disinterested person;

(K) The division may make multiple awards from a single solicitation document when such awards are in the best interest of the commission as determined in the sole discretion of the division;

(L) After an award is made, the solicitation file or facsimile thereof shall be made available to the public for inspection at any time during regular working hours; and

(M) Unless otherwise specified in the contract, substitution of items, personnel, or services shall require the approval of the division prior to shipment or performance.

(8) The division will encourage participation in the procurement process and fairness in consideration of bids/proposals submitted by Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs). Programs/procedures designed to accomplish these objectives may include: inclusion of MBE/WBE subcontractor requirements in solicitation documents, close review of bond requirements, targeted notice of procurement opportunities, utilization of minority and women personnel on evaluation committees, etc.

(9) A bid or proposal award protest must be submitted in writing and must be received by the division within ten (10) calendar days after the date of award. If the tenth day falls on a Saturday, Sunday, or state holiday, the period shall extend to the next state business day. A protest submitted after the ten (10)-calendar-day period shall not be considered. The written protest should include the following information:

(A) Name, address, and phone number of the protester;

(B) Signature of the protester or the protester's representative;

(C) Solicitation number;

(D) Detailed statement describing the grounds for the protest; and

(E) Supporting exhibits, evidence, or documents to substantiate claim.

(10) Award. The award of a contract or purchase order shall be based on the terms and conditions set forth in the solicitation document. The director's discretion may be utilized in the evaluation of bids/proposals provided that the evaluation categories and the relative percentage of impact are published in the solicitation document.

(A) Any bid/proposal failing to agree to, and comply with, all

terms, conditions, and specifications stated in the solicitation document shall be considered as nonresponsive to the solicitation and shall not be considered for the award of a contract or purchase order.

(B) The commission may reject all bids/proposals and may waive any minor informality or irregularity in a bid/proposal. The commission also may make multiple awards from a single solicitation document when permitted by the solicitation document.

(11) Corrections to Bid/Proposal Documents. When preparing a bid/proposal, a bidder/offeror may correct an error by marking it out or erasing it. The change should be initialed by the person signing the bid/proposal. No bid/proposal shall be altered or amended after the time and date specified for the opening of bids/proposals. In the case of errors in the extension of price, the unit price will govern.

(12) Cancellation of Solicitation. The division may cancel a solicitation document at any time without cause.

(13) New Supplies. All supplies and equipment offered and furnished must be new and of current production unless the solicitation document specifically permits the offer of used items. Remanufactured or reconstructed items shall not be considered new.

(14) Rejection of Supplies. Products, equipment, or items delivered that do not meet the specifications of the contract may be rejected. When rejected, the vendor must make immediate replacement in accordance with the specifications of the contract.

(15) Inspection. All materials, equipment, and supplies shall be subject to inspection and tests by the department. Items that do not meet the specifications of a contract may be rejected. The failure to reject upon receipt or after part or all of the items have been consumed shall not relieve the contractor of any liability under the contract.

(16) Services. Services which have not been performed in accordance with specifications or the scope of work of a contract may be rejected. The failure to reject upon receipt or after part or all of those services have been performed shall not relieve the vendor of any liability under the contract.

(17) Assignment. Permission from the commission to a contractor to assign a contract or order must be requested by the contractor in writing. A contractor shall not assign its interest in a contract or order to another party without receiving written permission from the division acting on behalf of the commission.

(18) Arbitration. The commission, unless specifically agreed upon by the parties in writing, shall not be bound by a compulsory arbitration or other compulsory dispute resolution provision which is present in any of vendor's forms or boilerplate.

AUTHORITY: sections 226.020, 226.130, 227.210, and 227.030, RSMo 2000. Original rule filed April 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed: June 5, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 11—Procurement**

PROPOSED RESCISSION

7 CSR 10-11.030 Bidder Registration, Official Mailing Lists, Suspension From List. This rule described the procedures for bidder registration and official mailing lists.

PURPOSE: This rule is being rescinded and readopted in order to more clearly define the Missouri Department of Transportation's procurement procedures.

AUTHORITY: sections 226.020, 226.130, and 227.030, RSMo 1986. Original rule filed April 5, 1993, effective Oct. 10, 1993. Rescinded: Filed June 5, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 11—Procurement of Supplies**

PROPOSED RULE

7 CSR 10-11.030 Vendor Registration, Notification of Competitive Bidding Opportunities, Suspension, and Debarment

PURPOSE: This proposed rule describes procedures for vendor registration, vendor notification of bidding opportunities, and procedures for suspension and debarment of vendors.

(1) Any individual, business, or organization may complete a commission vendor registration in order to be added to the commission's vendor database. It is the vendor's sole responsibility to update their vendor registration information with the commission.

(2) A person, business, or corporation contracting with the commission shall be considered as an independent contractor and shall not be considered nor represent him/herself as an employee or agency of the commission or department. A corporation must be authorized to do business in Missouri by registering with the Office of the Secretary of State before proceeding with work under a contract unless specifically exempt pursuant to section 351.572, RSMo.

(3) The director, or designee, may suspend a vendor for cause. The vendor shall be mailed a formal notice of suspension outlining the reasons for, the specific conditions of, and the effective period of the suspension. Upon completion of the suspension period it shall be the responsibility of the vendor to request reinstatement if desired. A request for reinstatement should be made in writing.

(A) Any bids/proposals submitted by a suspended vendor shall not be considered.

(B) The suspension of a vendor may be for a period of up to one hundred eighty (180) days for a first violation, and for not more than a year for subsequent violation(s).

(C) The vendor may appeal suspension by submitting a written request to the director or designee within fourteen (14) calendar days after receipt of the formal notice. The vendor must provide specific evidence and reasons why suspension is not warranted. On the basis of this information, the suspension may be modified, rescinded, or affirmed. The director's decision on the vendor's appeal shall be final and mailed to all parties.

(4) The director may debar a vendor whenever, in the director's sole discretion, it is in the best interest of the commission to do so. A vendor may be debarred for a single incident of serious misconduct or after multiple less serious incidents. The director shall notify the vendor of the reason for debarment and any action the vendor must take in order to be found eligible to contract again.

(A) Any bids/proposals submitted by a debarred vendor shall not be considered.

(B) The vendor may appeal the debarment by requesting that the determination be reviewed by the director or designee. Any request for review must be in writing and filed within fourteen (14) calendar days after the date of receipt of the notice of debarment. The request must set forth specific evidence and reasons why debarment should be reversed. The director's determination on the vendor's appeal shall be final and mailed to all parties.

(5) The following shall be sufficient cause for suspension or debarment. The list is not meant to be all inclusive but shall serve as a guideline for vendor discipline and business ethics.

(A) Failure to perform in accordance with the terms and conditions and requirements of any contract/purchase order;

(B) Violating any federal, state, or local law, ordinance, or regulation in the performance of any contract/purchase order;

(C) Providing false or misleading information on an application, in a bid/proposal, or in correspondence to the department or a state agency;

(D) Failing to honor a bid/proposal for the length of time specified;

(E) Colluding with others to restrain competition;

(F) Obtaining information, by whatever means, related to a proposal submitted by a competitor in response to a request for proposal (RFP) in order to obtain an unfair advantage during the negotiation process; or

(G) Contacting proposal/bid evaluators or any other person who may have influence over the award, without authorization from the division, for the purpose of influencing the award of a contract.

AUTHORITY: sections 226.020, 226.130, 227.210, and 227.030, RSMo 2000. Original rule filed April 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed June 5, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 45—Records Management**

PROPOSED AMENDMENT

15 CSR 30-45.040 Missouri Historical Records Advisory Board (MHRAB) Regrant Program Administration. Subsection (1)(B) is being deleted to allow eligibility for this grants-in-aid program to include all jurisdictions supported by tax levies; subsection (1)(C) Procedures and Evaluations of Applications will then become subsection (1)(B); and in paragraph (1)(B)3., the year designation for the Missouri Historical Records Grant Program and Guidelines will be amended.

PURPOSE: This amendment increases the number of entities eligible for the MHRAB's grants-in-aid program and revises the date of the program guidelines and application packet.

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

(1) The Missouri Historical Records Grant Program, administered by the Office of the Secretary of State, on behalf of the Missouri Historical Records Advisory Board, provides financial assistance to historical records repositories to support cooperative strategies, education for records keepers, and preservation and expanded access to records. This grants-in-aid program is a significant effort in the overall mission of the agency to enhance the quality of archival preservation and public access to records of historical value.

[(B) Local government entities are ineligible as the Local Records Preservation Program (initiated in 1991) offers direct help for records preservation and management to all jurisdictions supported by tax levies.]

[(C)](B) Procedures and Evaluation of Applications.

1. The Missouri Historical Records Advisory Board (MHRAB) recommends grant:

- A. Activities, requirements, and objectives;
- B. Cost-sharing contributions, budget structure, payment benchmarks, and accounting guidelines;
- C. Calendars.

2. The MHRAB reviews and evaluates applications, and makes awards in the program.

3. The process to be followed in writing and submitting a grant proposal is found in the *Missouri Historical Records Grant Program Guidelines and Application [2003-2004] 2009, which is incorporated by reference, and published by the secretary of state and available on the secretary of state website: www.sos.mo.gov. Paper copies are available from the Missouri Historical Records Grant Program, PO Box 1747, Jefferson City, MO 65102, (573) 751-4303. This material contains no later amendments or additions.*

AUTHORITY: sections 109.221.3 and 109.221.5, RSMo 2000. Original rule filed Oct. 6, 2000, effective April 30, 2001. Rescinded and re-adopted: Filed Oct. 6, 2003, effective April 30, 2004. Amended: Filed June 15, 2009.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, 600 West Main Street, Jefferson City MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, 168.405, and 168.409, RSMo 2000 and sections 161.092, 168.021, 168.071, 168.081, and 168.400, RSMo Supp. 2008, the board amends a rule as follows:

5 CSR 80-800.200 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2009 (34 MoReg 368). Changes have been made in the text of the *Compendium of Missouri Certification Requirements*, which is incorporated by reference. Changes have been made in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received twelve (12) letters of comment on the proposed amendment, and the department staff members made one (1) comment.

COMMENT #1: Marketing teachers from twelve (12) schools submitted comments objecting to the reduction of work experience from four thousand (4,000) to two thousand (2,000) hours.

RESPONSE: The board considered the comments and has decided to retain the proposed language; however, additional hours remain in

place for teachers of cooperative marketing classes.

COMMENT #2: In the twelve (12) letters, marketing teachers from five (5) schools also submitted comments objecting to the change in placement for the requirements of methods and curriculum coursework.

RESPONSE: The board considered the comments and has decided that listing the required methods, curriculum, assessment, and other coursework is most appropriate under the Secondary Education Competencies, Item II. Professional Requirements, B. Secondary Methods and Techniques and does not need to be reiterated in each subject area.

COMMENT #3: The department staff members made additional changes to the *Compendium* pertaining to the Career Education License to Teach (Adult) and Career Education License to Teach (Secondary) in 5 CSR 80-800.270 and 5 CSR 80-800.350.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Compendium of Missouri Certification Requirements* and the revision date for the *Compendium* in section (1).

5 CSR 80-800.200 Application for Certification of License to Teach

(1) An applicant for a Missouri certificate of license to teach who possesses good moral character and has successfully completed a state-approved teacher preparation program or earned a doctoral degree may be granted an initial Missouri certificate of license to teach in their major area of study subject to the specific certification requirements found in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised April 2009), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendment or additions.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, 168.405, and 168.409, RSMo 2000 and sections 161.092, 168.021, 168.071, 168.081, and 168.400, RSMo Supp. 2008, the board amends a rule as follows:

5 CSR 80-800.220 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2009 (34 MoReg 368-369). Changes have been made in the text of the *Compendium of Missouri Certification Requirements*, which is incorporated by reference. Changes have been made in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department staff members made one (1) comment.

COMMENT: The department staff members made additional changes to the *Compendium* pertaining to the Career Education License to Teach (Adult) and Career Education License to Teach (Secondary) in 5 CSR 80-800.270 and 5 CSR 80-800.350.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Compendium of Missouri Certification Requirements* and the revision date for the *Compendium* in section (1).

5 CSR 80-800.220 Application for Certificate of License to Teach for Administrators

(1) An applicant may be granted an administrator certificate of license to teach in the following areas subject to the specific certification requirements found in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule, and criteria established in the rules promulgated by the State Board of Education (board), to an individual who possesses good moral character. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised April 2009), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions:

**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 168.011, RSMo 2000 and sections 161.092, 168.021, 168.071, 168.081, and 168.400, RSMo Supp. 2008, the board amends a rule as follows:

5 CSR 80-800.230 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2009 (34 MoReg 369). Changes have been made in the text of the *Compendium of Missouri Certification Requirements*, which is incorporated by reference. Changes have been made in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department staff members made one (1) comment.

COMMENT: The department staff members made additional changes to the *Compendium* pertaining to the Career Education License to Teach (Adult) and Career Education License to Teach (Secondary) in 5 CSR 80-800.270 and 5 CSR 80-800.350.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Compendium of Missouri Certification Requirements* and the revision date for the *Compendium* in section (1).

5 CSR 80-800.230 Application for a Student Services Certificate of License to Teach

(1) An applicant for a student services certificate of license to teach may be granted in the following areas subject to the specific certification requirements found in the *Compendium of Missouri*

Certification Requirements (compendium), which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised April 2009), may contact the Educator Certification Section, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions. The criteria established in the rules, promulgated by the State Board of Education (board), to an individual who possesses good moral character is:

**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 168.011, RSMo 2000 and sections 161.092, 168.021, 168.071, 168.081, and 168.083, RSMo Supp. 2008, the board amends a rule as follows:

5 CSR 80-800.260 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2009 (34 MoReg 369-370). Changes have been made in the text of the *Compendium of Missouri Certification Requirements*, which is incorporated by reference. Changes have been made in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department staff members made one (1) comment.

COMMENT: The department staff members made additional changes to the *Compendium* pertaining to the Career Education License to Teach (Adult) and Career Education License to Teach (Secondary) in 5 CSR 80-800.270 and 5 CSR 80-800.350.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Compendium of Missouri Certification Requirements* and the revision date for the *Compendium* in subsection (7)(D).

5 CSR 80-800.260 Temporary Authorization Certificate of License to Teach

(7) The applicant for a temporary authorization certificate (excluding a temporary authorization administrator's and/or career education certificate) must comply with the following criteria:

(D) If this is the applicant's initial certificate of license to teach, documentation of a plan of study based upon required certification competencies incorporated in classes provided by an accredited college or university. If the applicant holds an initial Missouri professional or life certificate of license to teach and is seeking an additional certificate of license to teach, a transcript analysis from DESE based on the requirements set forth in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule, must be submitted. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised April 2009), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 168.011, RSMo 2000 and sections 161.092, 168.021, 168.071, and 168.081, RSMo Supp. 2008, the board amends a rule as follows:

5 CSR 80-800.270 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2009 (34 MoReg 370). Changes have been made in the text of the *Compendium of Missouri Certification Requirements*, which is incorporated by reference. Changes have been made in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received two (2) letters of comment on the proposed amendment.

COMMENT: Department staff members in the career education division made additional corrections to the wording of secondary and adult career education competencies.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Compendium of Missouri Certification Requirements* pertaining to the Career Education License to Teach (Adult) and Career Education License to Teach (Secondary). The department is revising section (5) pertaining to the revision date.

5 CSR 80-800.270 Application for a Career Education Certificate of License to Teach

(5) The applicant must comply with the specific requirements for the various career education certificates of license to teach as set forth in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised April 2009), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 168.011, RSMo 2000 and sections 161.092, 168.021, 168.071, and 168.081, RSMo Supp. 2008, the board amends a rule as follows:

5 CSR 80-800.280 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2009 (34 MoReg 370). Changes have been made in the text of the *Compendium of Missouri Certification Requirements*, which is incor-

porated by reference. Changes have been made in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department staff members made one (1) comment.

COMMENT: The department staff members made additional changes to the *Compendium* pertaining to the Career Education License to Teach (Adult) and Career Education License to Teach (Secondary) in 5 CSR 80-800.270 and 5 CSR 80-800.350.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Compendium of Missouri Certification Requirements* and the revision date for the *Compendium* in section (5).

5 CSR 80-800.280 Application for an Adult Education and Literacy Certificate of License to Teach

(5) The following AEL professional classification certificates of license to teach may be issued and renewed as set forth in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised April 2009), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions:

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 168.011, RSMo 2000 and sections 161.092, 168.021, 168.071, 168.081, and 168.400, RSMo Supp. 2008, the board amends a rule as follows:

5 CSR 80-800.350 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2009 (34 MoReg 370–372). Changes have been made in the text of the *Compendium of Missouri Certification Requirements*, which is incorporated by reference. Changes have been made in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received two (2) letters of comment on the proposed amendment.

COMMENT: Department staff members in the career education division made additional corrections to the wording of secondary and adult career education competencies.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the incorporated by reference material *Compendium of Missouri Certification Requirements* pertaining to the Certificate of License to Teach Content Areas in the Career Education License to Teach (Adult) and Career Education License to Teach (Secondary). The department is revising

section (2) pertaining to the revision date.

5 CSR 80-800.350 Certificate of License to Teach Content Areas

(2) Certificates of license to teach are issued and renewed by the State Board of Education (board) pursuant to the certification requirements found in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule, and the rules promulgated by the board in the specialized areas as follows. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised April 2009), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 80—Teacher Quality and Urban Education Chapter 800—Educator Certification

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, 168.128, 168.405, and 168.409, RSMo 2000 and sections 161.092, 168.021, 168.071, 168.081, and 168.400, RSMo Supp. 2008, the board amends a rule as follows:

5 CSR 80-800.360 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2009 (34 MoReg 372). Changes have been made in the text of the *Compendium of Missouri Certification Requirements*, which is incorporated by reference. Changes have been made in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department staff members made one (1) comment.

COMMENT: The department staff members made additional changes to the *Compendium* pertaining to the Career Education License to Teach (Adult) and Career Education License to Teach (Secondary) in 5 CSR 80-800.270 and 5 CSR 80-800.350.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Compendium of Missouri Certification Requirements* and the revision date for the *Compendium* in section (1).

5 CSR 80-800.360 Certificate of License to Teach Classifications

(1) Certificates of license to teach are issued and renewed by the State Board of Education (board) pursuant to the certification requirements found in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule, and the rules promulgated by the board. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised April 2009), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 80—Teacher Quality and Urban Education Chapter 800—Educator Certification

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 168.011, 168.405, and 168.409, RSMo 2000 and sections 161.092, 168.021, 168.071, 168.081, and 168.400, RSMo Supp. 2008, the board amends a rule as follows:

5 CSR 80-800.380 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2009 (34 MoReg 372–376). Changes have been made in the text of the *Compendium of Missouri Certification Requirements*, which is incorporated by reference. Changes have been made in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department staff members made one (1) comment.

COMMENT: The department staff members made additional changes to the *Compendium* pertaining to the Career Education License to Teach (Adult) and Career Education License to Teach (Secondary) in 5 CSR 80-800.270 and 5 CSR 80-800.350.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Compendium of Missouri Certification Requirements* and the revision date for the *Compendium* in subparagraph (1)(A)2.B.

5 CSR 80-800.380 Required Assessments for Professional Education Certification in Missouri

(1) Each applicant seeking a Missouri certificate of license to teach will successfully complete an exit assessment to measure the applicant's competency in subject matter, pedagogical knowledge, or both, prior to being granted the certificate. An exemption exists if the applicant holds a valid certificate of license to teach from another state.

(A) The State Board of Education (board) has selected the Praxis II: Content Knowledge or Specialty Area assessments and the Principles of Learning and Teaching assessments developed by the Educational Testing Service (ETS) as the exit assessments for certificates of license to teach. Qualifying scores are established by the board and published by ETS for each assessment designated for an area of certification.

1. Applicants seeking initial certificates of license to teach must complete and achieve a Missouri qualifying score in the content knowledge or specialty area assessment in their major area of preparation or the appropriate principles of learning and teaching assessment if no content knowledge or specialty area assessment is designated, except in the areas of special education, student services, and administration (see Appendix A, which is included herein).

2. Applicants holding a valid Missouri professional or life certificate of license to teach in a content area who are seeking an additional certificate(s) of license to teach in another content area(s), will receive the additional certificate(s) upon meeting either of the following conditions:

A. Complete and achieve a Missouri qualifying score for the Praxis II content knowledge or specialty area assessment designated for the certificate of license to teach, except for the areas of unified

science, special education other than mild/moderate cross-categorical disabilities, student services, administration, career education, and adult education and literacy; or

B. Successfully complete the applicable certification requirements as set forth in the *Compendium of Missouri Certification Requirements* (compendium), which is incorporated by reference and made a part of this rule. Anyone interested in viewing or requesting a copy of the compendium, published by the Department of Elementary and Secondary Education (revised April 2009), may contact the Educator Certification Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

3. Applicants holding a valid Missouri professional or life certificate of license to teach in a secondary content area who are seeking additional certification for middle school in the same content area will receive the additional certification upon meeting either of the following conditions:

A. Complete and achieve a Missouri qualifying score for the Praxis II: Principles of Learning and Teaching, grades five through nine (5-9), assessments; or

B. Successfully complete the applicable certification requirements for middle school education, grades five through nine (5-9), as set forth in the compendium.

**Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner amends a rule as follows:

6 CSR 10-2.100 Public Safety Officer or Employee's Child Survivor Grant Program **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 1, 2009 (34 MoReg 660-662). 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 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner amends a rule as follows:

6 CSR 10-2.120 Competitiveness Scholarship Program **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 1, 2009 (34 MoReg 662-665). 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 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Higher Education under section 173.250, RSMo Supp. 2008, the commissioner amends a rule as follows:

6 CSR 10-2.130 Vietnam Veteran's Survivors Grant Program **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 1, 2009 (34 MoReg 665-667). 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 7—Special Motor Fuel Use Tax**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 144.270, RSMo Supp. 2008, the director withdraws a proposed rescission as follows:

12 CSR 10-7.320 Adjustments to the Distribution of Funds Allocated Pursuant to Article IV, Section 30(a) of the *Missouri Constitution* as Referenced in Section 142.345, RSMo **is withdrawn.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 3, 2009 (34 MoReg 215). This proposed rescission is withdrawn.

SUMMARY OF COMMENTS: The department is withdrawing this proposed rescission at the request of the director of revenue.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 16—Cigarette Tax**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 144.270, RSMo Supp. 2008, the director withdraws a proposed rescission as follows:

12 CSR 10-16.170 Adjustments to the Distribution of St. Louis County Cigarette Tax Funds Pursuant to the Federal Decennial Census **is withdrawn.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 3, 2009 (34 MoReg 215). This proposed rescission is withdrawn.

SUMMARY OF COMMENTS: The department is withdrawing this proposed rule at the request of the director of revenue.

**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 MO HealthNet Division under sections 208.153 and 208.201, RSMo Supp. 2008, the division amends a rule as follows:

13 CSR 70-3.180 Medical Pre-Certification Process is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 1, 2009 (34 MoReg 723-724). 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 MO HealthNet Division under section 208.201, RSMo Supp. 2008, the division amends a rule as follows:

13 CSR 70-3.190 Telehealth Services is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 16, 2009 (34 MoReg 608-610). 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 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 15—Unauthorized Alien Workers**

ORDER OF RULEMAKING

By the authority vested in the attorney general under section 285.540, RSMo Supp. 2008, the attorney general adopts a rule as follows:

15 CSR 60-15.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 1, 2009 (34 MoReg 724). 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 attorney general received five (5) comments on the proposed rule.

COMMENT #1: Denise Hasty with Associated General Contractors of St. Louis and Jack Atterberry of Associated General Contractors

of Missouri pointed out that definition of “identity information” in the proposed rule did not comport with federal law and/or was inconsistent with federal law.

RESPONSE AND EXPLANATION OF CHANGE: The definition of identity information has been revised so that the information and documentation permitted by federal law meets the requirements of Missouri law.

COMMENT #2: The Builders Association pointed out that a limited liability company is not a corporation.

RESPONSE AND EXPLANATION OF CHANGE: The definition was changed to reflect the comment.

COMMENT #3: Associated General Contractors of Missouri, Associated General Contractors of St. Louis, and Lathrop & Gage commented that federal law does not require employers to keep copies of identifying documents presented by employees to verify employment eligibility and asked that that requirement be eliminated.

RESPONSE: Federal law does not prohibit an employer from keeping copies of such documents, and the Missouri requirement to keep such documents only effects newly hired employees hired after January 1, 2009. Therefore, no change was made in the rule.

COMMENT #4 The Missouri School Board’s Association commented that the rule appears to include the provision of tangible goods to a governmental entity contrary to legislative intent. A related staff comment was a possible construction of the rule that included mere material suppliers to contractors and subcontractors who provided no services under the public contract.

RESPONSE AND EXPLANATION OF CHANGES: Staff agrees and a definition was added to make clear that the statute and rule only applies to services. Other parallel revisions were made to make clear that the rule applies only to contracts for services.

COMMENT #5: Staff received several oral comments and questions about application of the rule to insurers who provide medical or dental insurance coverage to public employees and whether such insurers were employers within the meaning of the public contract portions of the rule. Similar comments were made by Associated Building Contractors of Missouri regarding insurers or other companies that provide required insurance, bonds, or other surety obligations in connection with public contracts.

RESPONSE AND EXPLANATION OF CHANGES: An additional definition was added to make clear that the rule does not apply in such situations.

15 CSR 60-15.010 Definitions

(1) The terms used in Title 15, Division 60, Chapter 15 of the *Code of State Regulations* bear the same meaning in the rules pertaining to unauthorized alien workers as they do in section 285.525, RSMo Supp. 2008, as amended.

(2) The following definitions further clarify terms used in section 285.525, RSMo Supp. 2008, and Title 15, Division 60, Chapter 15 of the *Code of State Regulations*:

(A) “Business entity”—in addition to the definition as used in section 285.525(1), RSMo Supp. 2008, business entities include limited liability companies (LLCs);

(B) “Contract or grant”—does not include a permit or license issued by any political subdivision, county, or municipality;

(C) “Contractor”—does not include a person, employer, or business entity providing bonding or insurance products to employees of the state, a political subdivision, county, or municipality;

(D) "Identity information"—includes a copy of the Form I-9 completed by the employer and employee including copies of documents presented by the employee establishing identity and employment eligibility or, alternatively, an E-Verify case verification number and a copy of any documents received from the Social Security Administration or U.S. Department of Homeland Security regarding the employment eligibility of the employee or employees;

(E) "State-administered or subsidized tax credit, tax abatement, or loan"—includes credits provided under section 99.845.4-.12, RSMo 2000; and

(F) "Subcontractor"—does not include a business entity that merely supplies goods or materials to a contractor or subcontractor hired by the contractor to perform services to perform a contract with the state, a political subdivision, municipality, or county.

**Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 15—Unauthorized Alien Workers**

ORDER OF RULEMAKING

By the authority vested in the attorney general under section 285.540, RSMo Supp. 2008, the attorney general adopts a rule as follows:

15 CSR 60-15.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 1, 2009 (34 MoReg 724-725). 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 attorney general received two (2) comments on the proposed rule.

COMMENT #1: Associated General Contractors of Missouri and Associated General Contractors of St. Louis commented that the proposed rule was unclear about when a contractor must provide a public entity with the required affidavit.

RESPONSE AND EXPLANATION OF CHANGE: The rule has been modified to make clear that the contractor's affidavit must be provided to the public entity with a bid or response to a request for proposal. Affidavits that subcontractors must provide to general subcontractors are not required until the general contractor hires the subcontractor.

COMMENT #2: Associated General Contractors of Missouri, Associated General Contractors of St. Louis, the Missouri School Board's Association, and Lathrop & Gage objected to a perceived requirement of the rule that it was being applied retroactively and that the allowance of ninety (90) days to file the affidavit regarding an existing contract unfairly advantaged some potential bidders.

RESPONSE AND EXPLANATION OF CHANGE: The reference to the ninety (90)-day period does not appear in the rule but was included in the emergency rule only because the rule was not promulgated until several months after the effective date of the statute. It was, therefore, unnecessary in the final rule. There was no intent to apply the statute retroactively to a date prior to its effective date. However, the prohibition against employing illegal workers became effective January 1, 2009, and, therefore applies to the performance of existing contracts even though the affidavit requirement does not. Some changes in wording were made to more clearly effect this legislative intent and effect.

15 CSR 60-15.020 Form of Affidavit

(1) Any bid or response to a request for proposal (RFP) for the award of any contract for services or grant in excess of five thousand dollars (\$5,000) by the state or by any political subdivision of the state to a business entity, or application by any business entity to receive a state-administered or subsidized tax credit, tax abatement, or loan from the state, shall be accompanied by an affidavit containing the following:

(2) A subcontractor must provide a similar affidavit to its contractor or subcontractor at the time the subcontractor is hired.

(3) A contractor or subcontractor is not required to perform an electronic verification check described above on an employee hired before January 1, 2009.

(4) Any business entity having a contract or grant in excess of five thousand dollars (\$5,000) from the state, a political subdivision, municipality, or county awarded before the effective date of this law is not required to complete the affidavit described above until the grant or contract is renewed but is not relieved from compliance with the provisions of section 285.530(1), RSMo Supp. 2008.

(5) Any business entity that has received a state administered or subsidized tax credit, tax abatement, or loan from the state prior to the effective date of this law is not required to complete the affidavit described above but is not relieved from compliance with section 285.530(1), RSMo Supp. 2008.

(6) Any business entity that merely provides goods or products to the state or a political subdivision with no services is not required to file the affidavit described above.

(7) The attorney general may make available a form of affidavit that will satisfy the requirements of section 285.530, RSMo Supp. 2008.

**Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 15—Unauthorized Alien Workers**

ORDER OF RULEMAKING

By the authority vested in the attorney general under section 285.540, RSMo Supp. 2008, the attorney general adopts a rule as follows:

15 CSR 60-15.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 1, 2009 (34 MoReg 725). 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 attorney general received five (5) comments on the proposed rule.

COMMENT #1: Associated General Contractors of Missouri and Associated General Contractors of St. Louis commented that the statutory provision regarding penalties for a frivolous complaint should be in the regulation.

RESPONSE: Rules are not intended merely to repeat clear statutory provisions. Staff does not believe that penalty language needs any clarification or interpretation, so no change has been made in the rule.

COMMENT #2: Staff noted that section 285.535, RSMo, requires a complaint to be sworn.

RESPONSE AND EXPLANATION OF CHANGE: Regulation was modified to make clear that complaints must be under oath, which requires a written complaint.

COMMENT #3: Staff noted that the word “off” following “print” was slang and grammatically incorrect.

RESPONSE AND EXPLANATION OF CHANGE: The word “off” was removed. Also note that the zip code is incorrect. It should be “65102.”

COMMENT #4: Staff noted that the statute specifically provides that a political subdivision or municipality is permitted to file a complaint.

RESPONSE AND EXPLANATION OF CHANGE: Regulation was modified to be consistent with statute.

COMMENT #5: Staff noted that early complaints under the emergency rule often did not contain any identifying information about the alleged alien worker and therefore made investigation impossible and required requests for amended complaints.

RESPONSE AND EXPLANATION OF CHANGE: Regulation was modified to emphasize the need for specificity in the complaint.

15 CSR 60-15.030 Complaints

(1) State officials, business entities, or any state resident may file a complaint in writing and under oath with the Missouri Attorney General’s Office that a business entity or employer has knowingly employed, hired for employment, or continued to employ an unauthorized alien to perform work in Missouri in violation of section 285.530, RSMo Supp. 2008.

(2) Persons wishing to file a complaint may request a complaint form from the Missouri Attorney General’s Office, PO Box 899, Jefferson City, MO 65109; or may download and print the form from the Missouri Attorney General’s website at www.ago.mo.gov.

(3) The form must be completed in its entirety, and the person submitting a complaint must:

(C) Verify that they are either: a Missouri resident, an official of the state, a political subdivision or municipality, or a registered agent, corporate officer, or legal representative of a business entity;

(D) A detailed description of the violation, including reasonably specific information about the alleged alien worker;

Title 15—ELECTED OFFICIALS Division 60—Attorney General Chapter 15—Unauthorized Alien Workers

ORDER OF RULEMAKING

By the authority vested in the attorney general under section 285.540, RSMo Supp. 2008, the attorney general adopts a rule as follows:

15 CSR 60-15.040 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 1, 2009 (34 MoReg 725-726). 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 attorney general received four (4) comments on the proposed rule.

COMMENT #1: Associated General Contractors of Missouri and Associated General Contractors of St. Louis commented that the rule

should be completely rewritten, had technical errors in cross-referencing, and was unclear about procedures to be followed. They also commented that it can only be a court, rather than the attorney general, that can terminate a contract of a violator, order suspension of a license or permit, or place a violator on a suspension or debarment list.

RESPONSE AND EXPLANATION OF CHANGE: This rule has been substantially rewritten to address these comments and delineate more clearly the procedure to be followed by the attorney general upon receipt of a valid complaint. The revisions also more clearly delineate the various enforcement alternatives available to the attorney general depending upon whether the employer responds, the federal government determines that an employee is ineligible, and whether the violation is knowing, a first time violation or second violation. The revisions also more clearly delineate the additional penalties for violators who hold applicable contracts or grants with governmental entities. The suggestions concerning suspension and termination were noted but the recommendations are directly contrary to clear legislative intent and direction.

COMMENT #2: A staff member commented that additional language in the title of the rule describing the content would be beneficial to the reader.

RESPONSE AND EXPLANATION OF CHANGE: Additional language was added to the title of the rule.

COMMENT #3: Staff noted that there was no need for a definition of identity information in the section because 15 CSR 60-15.010 already defined the term.

RESPONSE AND EXPLANATION OF CHANGE: The definition in section (2) was removed because it was redundant.

COMMENT #4: Staff also noted that sections (4)–(9) in the proposed rule should be in 15 CSR 60-15.050 for organizational clarity and readability.

RESPONSE AND EXPLANATION OF CHANGE: Sections (4)–(9) in the proposed rule were moved to 15 CSR 60-15.050 in the order.

15 CSR 60-15.040 Investigation of Complaints; Failure to Respond to Attorney General Request for Identity Information

(1) Upon the receipt of a valid complaint, the Missouri Attorney General’s Office shall, within fifteen (15) days, request by certified mail that the business entity provide identity information regarding person(s) alleged to be unauthorized alien workers.

(2) The business entity shall provide the “identity information” within fifteen (15) days of the receipt of the request. If the business entity fails to do so, the attorney general shall direct any applicable state agency, political subdivision, and municipal or county governing body to suspend any licenses or permits of the business entity effective fifteen (15) days from the receipt of notice by the applicable state agency, political subdivision, county, or municipality from the attorney general unless the business entity submits to the attorney general evidence of one (1) of the following within that time:

(A) That the business entity has terminated the individual, or is attempting to terminate the individual and is being challenged in court or other administrative proceeding; or

(B) That the business entity, after acquiring additional information from the employee, has requested a secondary or additional verification by the federal government of the employee’s authorization.

Title 15—ELECTED OFFICIALS Division 60—Attorney General Chapter 15—Unauthorized Alien Workers

ORDER OF RULEMAKING

By the authority vested in the attorney general under section 285.540, RSMo Supp. 2008, the attorney general adopts a rule as follows:

15 CSR 60-15.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 1, 2009 (34 MoReg 726). 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 attorney general received one (1) comment on the proposed rule.

COMMENT #1: Associated General Contractors of Missouri and Associated General Contractors of St. Louis commented that the rule should be completely rewritten, had technical errors in cross-referencing, and was unclear about procedures to be followed. They also commented that it can only be a court, rather than the attorney general, that can terminate a contract of a violator, order suspension of a license or permit, or place a violator on a suspension or debarment list.

RESPONSE AND EXPLANATION OF CHANGE: This rule has been substantially rewritten to address these comments and delineate more clearly the procedure to be followed by the attorney general upon receipt of a valid complaint. The revisions also more clearly delineate the various enforcement alternatives available to the attorney general depending upon whether the employer responds, the federal government determines that an employee is ineligible, and whether the violation is knowing, a first time violation, or second violation. The revisions also more clearly delineate the additional penalties for violators who hold applicable contracts or grants with governmental entities. The suggestions concerning suspension and termination were noted but the recommendations are directly contrary to clear legislative intent and direction.

15 CSR 60-15.050 Notification by Federal Government that Individual is Not Authorized to Work

(1) Upon notification from the federal government to the Missouri Attorney General's Office that an individual is not authorized to work, and the employer participates in a federal work authorization program, the Missouri Attorney General's Office shall notify the employer to comply with section 285.535.6, RSMo Supp. 2008.

(A) The employer shall, through its legal representative as noted in subsection (1)(B) below, submit evidence of one (1) of the following within thirty (30) days:

1. The business entity has terminated the individual, or is attempting to terminate the individual and is being challenged in court or other administrative proceeding; or

2. The business entity, after acquiring additional information from the employee, has requested a secondary or additional verification by the federal government of the employee's authorization.

(B) The legal representative of the business entity shall submit a sworn affidavit to the Missouri Attorney General, PO Box 899, Jefferson City, MO 65102, stating the violation has ended and provide:

1. Evidence of the specific measures taken to end the violation, which shall, at a minimum, include a notarized affidavit, from the human resources director or other officer of the business entity whose duties include terminating the employment of employees, etc., describing the events surrounding the termination of employment;

2. The name, address, and all identifying information available to the business entity concerning the unauthorized alien(s) related to the complaint; and

3. Evidence that the business entity has enrolled in, and is currently participating in, E-Verify, a federal work authorization program, or any other equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA).

(2) Enforcement Actions by Attorney General if Business Entity Employs an Unauthorized Worker.

(A) If the federal government notifies the attorney general that a business entity has employed an unauthorized worker and the business entity has failed to correct the violation as set forth herein, the attorney general shall bring an action in the Circuit Court of Cole County if the attorney general reasonably believes the business entity knowingly employed or continued to employ an unauthorized worker in violation of section 285.530.1, RSMo Supp. 2008. In such action, the attorney general may ask the circuit court to direct any applicable state agency, political subdivision, and municipal or county governing body to suspend any business permits or license of the business entity until the entity complies with subsection 6. of 285.535, RSMo Supp. 2008.

(3) Additional Penalties for Business Entity Having a Contract or Grant with State, Political Subdivision, County, or Municipality.

(A) In addition to the penalties that may be assessed by a court for violation of the provisions of section 285.530.1, RSMo Supp. 2008, upon the first violation by any business entity awarded a contract or grant by the state, a political subdivision, municipality, or county or receiving a state-administered tax credit, tax abatement, or loan or loan guarantee from the state the business entity shall be deemed in breach of contract and the state, political subdivision, municipality, or county may terminate the contract. Upon such termination, the state, political subdivision, municipality, or county may withhold up to twenty-five percent (25%) of the total amount due to the business entity. The state, political subdivision, municipality, or county shall notify the attorney general of any such termination. Upon receipt of notice of such termination of a contract or grant or a violation of section 285.530.1, RSMo Supp. 2008, by the recipient of a state administered tax credit, tax abatement, or loan or loan guarantee from the state, the attorney general shall suspend or debar the business entity from doing business with any state, political subdivision, municipality, or county for a period of three (3) years.

(B) Upon the second or subsequent violation by any business entity awarded a contract or grant by the state, a political subdivision, municipality, or county or receiving a state-administered tax credit, tax abatement, or loan or loan guarantee from the state, the business entity shall be deemed in breach of contract and the state, political subdivision, municipality, or county may terminate the contract. Upon such termination, the state may withhold up to twenty-five percent (25%) of the total amount due to the business entity. Upon receipt by the attorney general of notice of a second or subsequent violation, the attorney general shall permanently suspend or debar the business entity from doing business with the state.

(4) The attorney general shall maintain on his website a list of all business entities suspended or debarred under this section.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 20—Division of Community and Public Health
Chapter 44—Emergency Response and Terrorism**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Health and Senior Services under section 44.105, RSMo Supp. 2008, the department adopts a rule as follows:

19 CSR 20-44.010 Volunteer Dispensing of Strategic National Stockpile Medications During Governor-Declared Disasters is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 17, 2009 (34 MoReg 288-289). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 40—Comprehensive Emergency Medical Services Systems Regulations

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Health and Senior Services under section 190.618, RSMo Supp. 2008, the department adopts a rule as follows:

19 CSR 30-40.600 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 17, 2009 (34 MoReg 296-303). Changes have been made in the text of the proposed rule, so it is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received nine (9) letters with seventeen (17) comments.

COMMENT #1: Although the proposed rule appears to be consistent with the statute and the proposed outside the hospital do-not-resuscitate (OHDNR) form appears to be consistent with the rule and the statute, instructions for its use by physicians and lay persons should be given on its reverse side. Suggestions for the instructions were also provided to the department.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended section (2) to include a list of definitions and a protocol to be used either on the backside of the form or as a page two of the form. The OHDNR form, page one, is reprinted at the end of this order of rulemaking along with the list of definitions and a protocol to be used either on the back side of the OHDNR form or as a page two of the form.

COMMENT #2: Some fear the new rule and form would not permit other standing orders or identifiers outside of a hospital such as palliative care orders or allergy/diabetes identifiers, but the majority of the Missouri End-of-Life Coalition members do not read the statute to be that limiting. The OHDNR form or identifiers could be supplemented with other such orders and identifiers.

RESPONSE: The department agrees that the OHDNR does not prohibit any other standing orders or identifiers. Once adopted and upon the effective date, the OHDNR will be the only form to provide liability protection pursuant to section 190.606, RSMo. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #3: Subsection (3)(A) should be amended to clarify that an OHDNR order shall only be effective when the patient has not

been admitted to or is not being treated within a hospital or has not yet “come to the emergency department” as defined in the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. section 1395dd, and the regulation 42 C.F.R. section 489.24(a) and referenced in the Centers for Medicare and Medicaid Services State Operations Manual Appendix V – Interpretive Guideline – Responsibilities of Medicare Participating Hospitals in Emergency Cases (Rev. 1, 05-21-04).

RESPONSE AND EXPLANATION OF CHANGE: The department can find no contraindication with this suggested change. Therefore, after careful consideration the department has incorporated this additional language into subsection (3)(A) as a result of this comment.

COMMENT #4: The final rule should allow for the use of community-adopted OHDNR protocols and orders which currently are being used or in development.

RESPONSE: The Outside the Hospital Do-Not-Resuscitate Act provides immunity from liability for certain persons and entities pursuant to section 190.606, RSMo. Nothing in the law is intended to invalidate previous orders as reflected in subsection (3)(D). Existing orders may be followed, but the liability protection will not be present for those who do not come under the protections listed in section 190.606, RSMo. Existing OHDNR forms do not meet the requirements set forth in the statutes. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #5: The definition of “emergency medical services personnel” should be clarified to specifically exclude persons who do not regularly respond to life threatening emergency situations.

RESPONSE: The definition of “emergency medical services personnel” as used in this proposed regulation includes the phrase, “working within the ordinary course and scope of their profession.” The language in the proposed regulation is identical to that used in the statute. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #6: The definition of “health care facility” should be revised to specifically exclude a public school district or school building.

RESPONSE: The definition of “health care facility” as used in this proposed regulation would not include public schools. The department believes the intent of the definition was to include only those facilities/services whose primary function is the delivery of health care. The language in the proposed regulation is identical to that used in the statute. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #7: The definition of “patient” should be clarified as it is unclear whether a person under eighteen (18) years of age can be a “patient.”

RESPONSE: The language for this definition is identical to that used in the statute. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #8: The proposed rule does not address the status of any other do-not-resuscitate orders an individual might have in place and presented specific cases for consideration.

RESPONSE: Existing do-not-resuscitate orders will remain valid as reflected in subsection (3)(D), but they will not provide the liability protection for persons and entities pursuant to section 190.606, RSMo. Extant do-not-resuscitate orders can be honored. There is no requirement to replace all existing do-not-resuscitate orders. The proposed do-not-resuscitate order and form should be utilized from the effective date by all patients desirous of such an order. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #9: The OHDNR should not apply if emergency medical service staff knows that a suicide attempt has taken place, suspects a suicide attempt, or suspects foul play.

RESPONSE: The role of emergency medical service staff is to provide emergency medical services. Determination of a suicide or the investigation to determine foul play is not within the scope of practice for an emergency medical technician. There is also no reference to this type of situation in the statute. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #10: One (1) standard form for OHDNR is long overdue. A more extensive form created in larger cities would complicate issues for emergency medical service workers.

RESPONSE: The department agrees and wishes to emphasize that the one (1) form defined by regulation is the only form that will provide liability protection for persons and entities pursuant to section 190.606, RSMo. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #11: The proposed form has no general guidelines on the back of the form for easy reference. The proposed form lacks the definition of the patient's representative.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and, after careful consideration, the department has added key definitions and an OHDNR protocol for placement on the back side or page two of the OHDNR form. The OHDNR form, page one, is reprinted at the end of this order of rulemaking along with the list of key definitions and an OHDNR protocol for placement on the back side or page two of the OHDNR form.

COMMENT #12: Would the next of kin be authorized to sign the OHDNR when a guardian has not been legally designated for the patient?

RESPONSE: The "patient's representative" definition used in the proposed regulation is identical to the statutory language. A next of kin would not be authorized to sign the OHDNR unless they meet the requirements as a patient's representative in this proposed regulation. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #13: The definition of "patient's representative" is unnecessarily restrictive and limits the recognition of an appropriate surrogate.

RESPONSE: The "patient's representative" definition used in the proposed regulation is identical to the statutory language. No definition is included in the statute for an "appropriate surrogate." Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #14: Subsection (2)(B) creates significant ambiguity by appearing to limit the validity of the OHDNR to a physical location, and is an unnecessary addition to the initial statement clearly related to hospital admission.

RESPONSE AND EXPLANATION OF CHANGE: The language used in subsection (2)(B) was taken directly from the statute. However, the department can find no contraindication by adding the same language as used in subsection (3)(A) to the proposed regulation at subsection (2)(B). Therefore, after careful consideration, the department has incorporated additional clarifying language into the regulation as a result of this comment.

COMMENT #15: The language used in subsection (2)(I) does not address the issues of capacity or competency of the patient in revoking an OHDNR.

RESPONSE: The department understands this concern and agrees that determining capacity or competency in the field would be difficult in an emergent situation. The proposed language in paragraph (2)(I)2. was taken directly from statute. Therefore, after careful con-

sideration, no changes have been made to the rule as a result of this comment.

COMMENT #16: The term "authorized," as used in section (3), is incongruent with the intent of the original statute, and the proposed language should be strengthened to address the reasonable requirement to comply with the OHDNR.

RESPONSE: The department understands this concern, but the language used in the proposed regulation is identical to that found in the statute. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

COMMENT #17: Alternative language for subsection (3)(D) was offered as an amendment to the proposed regulation. The suggested alternative language appears to allow for more than one (1) form of OHDNR to be utilized.

RESPONSE: The language used for this section was derived from the statute. The department believes the proposed language is in agreement with the intent of the legislation. Therefore, after careful consideration, no changes have been made to the rule as a result of this comment.

19 CSR 30-40.600 Outside the Hospital Do-Not-Resuscitate (OHDNR)

(2) A properly executed OHDNR order—

(A) Shall be completed on an OHDNR order form with an optional instruction form. The OHDNR order form and instruction form are included herein and available at the Emergency Medical Services Bureau office, online at www.dhss.mo.gov/EMS, or obtained by mailing a written request to the Missouri Department of Health and Senior Services, EMS Bureau, PO Box 570, Jefferson City, MO 65102-0570. The instruction form may be photocopied on the back side of the OHDNR order form or attached as a separate page to the OHDNR order form;

(B) Shall only be effective when the patient has not been admitted to or is not being treated within a hospital or has not yet come to the emergency department as defined in the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. section 1395dd, and the regulation 42 C.F.R. section 489.24(a) and referenced in the Centers for Medicare and Medicaid Services State Operations Manual Appendix V – Interpretive Guideline – Responsibilities of Medicare Participating Hospitals in Emergency Cases (Rev. 1, 05-21-04);

(H) May be photocopied or faxed, and this photocopy or other complete facsimile of the original OHDNR order may be used for any purpose for which the original OHDNR order may be used;

(I) May be revoked at anytime. A patient or a patient's representative may revoke an OHDNR order by:

1. Signing in the box on the OHDNR order form labeled revocation provision. The revocation provision box shall remain unsigned in order for the OHDNR order to remain in effect;

2. Expressing to emergency medical services personnel in any manner, before or after the onset of a cardiac or respiratory arrest, the desire to be resuscitated; or

3. Destroying a patient's original OHDNR order form and any applicable OHDNR identification such as an identification card, bracelet, or necklace; and

(J) Shall be valid and effective whether or not an instruction form is included on the back side of the OHDNR form or attached as a separate page to the OHDNR order form.

(3) Emergency medical services personnel are authorized to comply with the OHDNR protocol when presented with OHDNR identification or an OHDNR order. The outside the hospital do-not-resuscitate (OHDNR) protocol includes the following standardized methods or procedures:

(A) An OHDNR order shall only be effective when the patient has not been admitted to or is not being treated within a hospital or has

not yet come to the emergency department as defined in the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. section 1395dd, and the regulation 42 C.F.R. section 489.24(a) and referenced in the Centers for Medicare and Medicaid Services State Operations Manual Appendix V – Interpretive Guideline – Responsibilities of Medicare Participating Hospitals in Emergency Cases (Rev. 1, 05-21-04);

OUTSIDE THE HOSPITAL DO-NOT-RESUSCITATE (OHDNR) ORDER

I, _____, authorize emergency medical services personnel to
(name)
withhold or withdraw cardiopulmonary resuscitation from me in the event I suffer cardiac or respiratory arrest. Cardiac arrest means my heart stops beating and respiratory arrest means I stop breathing.

I understand that in the event that I suffer cardiac or respiratory arrest, this OHDNR order will take effect and no medical procedure to restart breathing or heart functioning will be instituted.

I understand this decision will **not** prevent me from obtaining other emergency medical care and medical interventions, such as intravenous fluids, oxygen or therapies other than cardiopulmonary resuscitation such as those deemed necessary to provide comfort care or to alleviate pain by any health care provider (e.g. paramedics) and/or medical care directed by a physician prior to my death.

I understand I may revoke this order at any time.

I give permission for this OHDNR order to be given to outside the hospital care providers (e.g. paramedics), doctors, nurses, or other health care personnel as necessary to implement this order.

I hereby agree to the "Outside The Hospital Do-Not-Resuscitate" (OHDNR) Order.

Patient – Printed or Typed Name		Date
Patient's Signature or Patient Representative's Signature		Date
REVOCAION PROVISION		
I hereby revoke the above declaration.		
Patient's Signature or Patient Representative's Signature		Date
I AUTHORIZE EMERGENCY MEDICAL SERVICES PERSONNEL TO WITHHOLD OR WITHDRAW CARDIOPULMONARY RESUSCITATION FROM THE PATIENT IN THE EVENT OF CARDIAC OR RESPIRATORY ARREST.		
I affirm this order is the expressed wish of the patient/patient's representative, medically appropriate and documented in the patient's permanent medical record.		
Attending Physician's Signature (Mandatory)		Date
Attending Physician – Printed or Typed Name	Attending Physician's License No.	Attending Physician's Telephone No.
Address – Printed or Typed		Facility or Agency Name

THIS OHDNR ORDER SHALL REMAIN WITH THE PATIENT WHEN TRANSFERRED OUTSIDE THE HEALTH CARE FACILITY.

Emergency Medical Services personnel shall not comply with an outside the hospital do-not-resuscitate order when the patient or the patient's representative expresses to such personnel in any manner, before or after the onset of a cardiac or respiratory arrest, the desire to be resuscitated or if the patient is or is believed to be pregnant.

**DEFINITIONS OF KEY TERMS FOR THE OUTSIDE THE HOSPITAL
DO-NOT-RESUSCITATE (OHDNR) ORDER**

Attending physician	(1) A physician licensed under Chapter 334, RSMo, selected by or assigned to a patient who has primary responsibility for treatment and care of the patient; or (2) If more than one physician shares responsibility for the treatment and care of a patient, one such physician who has been designated the attending physician by the patient or the patient's representative shall serve as the attending physician.
Cardiopulmonary resuscitation (CPR)	Emergency medical treatment administered to a patient in the event of the patient's cardiac or respiratory arrest, and shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of cardiac resuscitation medications, and related procedures.
Emergency medical services personnel	Paid or volunteer firefighters, law enforcement officers, first responders, emergency medical technicians, or other emergency service personnel acting within the ordinary course and scope of their professions, but excluding physicians.
Outside the hospital do-not-resuscitate identification	A standardized identification card, bracelet, or necklace of a single color, form and design as set forth in 19 CSR 30-40.600 that signifies that the patient's attending physician has issued an outside the hospital do-not-resuscitate order for the patient and has documented the grounds for the order in the patient's medical file.
Outside the hospital do-not-resuscitate order	A written physician's order signed by the patient and the attending physician, or the patient's representative and the attending physician, which authorizes emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation from the patient in the event of cardiac or respiratory arrest.
Patient	A person eighteen years of age or older who is not incapacitated, as defined in section 475.010, RSMo, and who is otherwise competent to give informed consent to an outside the hospital do-not-resuscitate order at the time such order is issued, and who, with his or her attending physician, has executed an outside the hospital do-not-resuscitate order under sections 190.600 to 190.621, RSMo. A person who has a patient's representative shall also be a patient for the purposes of sections 190.600 to 190.621, RSMo, if the person or the person's patient's representative has executed an outside the hospital do-not-resuscitate order under sections 190.600 to 190.621, RSMo.
Patient's representative	(1) An attorney in fact designated in a durable power of attorney for health care for a patient determined to be incapacitated under sections 404.800 to 404.872, RSMo; or (2) A guardian or limited guardian appointed under Chapter 475, RSMo, to have responsibility for an incapacitated patient.

OUTSIDE THE HOSPITAL DO-NOT- RESUSCITATE (OHDNR) PROTOCOL

Emergency medical services personnel are authorized to comply with the OHDNR protocol when presented with OHDNR identification or an OHDNR order. The Outside the Hospital Do Not Resuscitate (OHDNR) protocol includes the following standardized methods or procedures:

- (1) An OHDNR order shall only be effective when the patient has not been admitted to or is not being treated within a hospital or has not yet come to the emergency department as defined in the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. 1395dd, and the regulation 42 C.F.R. 489.24(a) and referenced in the Centers for Medicare and Medicaid Services State Operations Manual Appendix V – Interpretive Guideline – Responsibilities of Medicare Participating hospitals in Emergency Cases (Rev. 1, 05-21-04);
- (2) Emergency medical services personnel shall not comply with an OHDNR order or the OHDNR protocol when the patient or patient's representative expresses to such personnel in any manner, before or after the onset of a cardiac or respiratory arrest, the desire to be resuscitated;
- (3) An OHDNR order shall not be effective during such time as the patient is pregnant;

- (4) A properly executed OHDNR order authorizes emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation from the patient in the event of cardiac or respiratory arrest. Emergency medical services personnel shall not withhold or withdraw other medical interventions, such as intravenous fluids, oxygen, or therapies other than cardiopulmonary resuscitation such as those to provide comfort care or alleviate pain. Nothing in this regulation shall prejudice any other lawful directives concerning such medical interventions and therapies;
- (5) If any doubt exists about the validity of the OHDNR identification or an OHDNR order, resuscitation shall be initiated and medical control shall be contacted;
- (6) If the OHDNR order or OHDNR identification is presented after Basic or Advanced Life Support procedures have started, the emergency medical services personnel shall honor the form and withhold or withdraw cardiopulmonary resuscitation from a patient who is suffering cardiac or respiratory arrest;
- (7) After noting the properly executed OHDNR order or OHDNR identification, no cardiac monitoring is necessary and no medical control contact is necessary; and
- (8) Emergency medical services personnel shall document review of the OHDNR order and/or OHDNR identification in the patient care record.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES**
**Division 40—Division of Maternal, Child and Family
Health**
Chapter 11—Payments for Vision Examinations

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Health and Senior Services under sections 167.195 and 192.935, RSMo Supp. 2008, the department adopts a rule as follows:

19 CSR 40-11.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 17, 2009 (34 MoReg 304–308). 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 Department of Health and Senior Services received nine (9) comments from the Missouri School Boards' Association (MSBA).

COMMENT #1: MSBA recommends the department amend section (1) to correctly reflect the requirement for screening method to be approved by the Children's Vision Commission as stated in section 167.195.1, RSMo, rather than developed by the Children's Vision Commission.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised section (1) accordingly.

COMMENT #2: MSBA requests the department identify the ending date of the screening requirement as stated in section 167.195.1., RSMo in section (1).

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised section (1) accordingly.

COMMENT #3: MSBA recommends the language be changed to "proposing" an examination, rather than "referring" for an examination in sections (1) and (4).

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised sections (1) and (4) accordingly.

COMMENT #4: MSBA expressed a concern as to when school districts will be awarded vision vouchers and who will award the vouchers.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised section (3) to reflect that vouchers will be issued prior to the beginning of the school year by the department.

COMMENT #5: MSBA requested further clarification in section (3) as to the source utilized for calculating the number of children likely to fail a screening and calculating the number of eligible children per school district.

RESPONSE AND EXPLANATION OF CHANGE: The department has amended section (3) to clarify how the department will calculate the numbers of children and has removed subsection (3)(F) in its entirety as being non-essential to the methodology and confusing to the public.

COMMENT #6: MSBA requests section (4) be amended to provide for schools to distribute vouchers based on the availability of vouchers.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended section (4) accordingly.

COMMENT #7: MSBA related concerns regarding qualifications for coverage and how lack of insurance is determined.

RESPONSE AND EXPLANATION OF CHANGE: The department has revised sections (5) and (6) to clarify the methodology of qualification for coverage.

COMMENT #8: MSBA expressed concern and requested clarification on time frames for use of the vouchers in section (7).

RESPONSE AND EXPLANATION OF CHANGE: The department has revised section (7) to clarify time frames for use of the vouchers.

COMMENT #9: MSBA asked the department to set an expiration date for the vouchers.

RESPONSE AND EXPLANATION OF CHANGE: The department has added a new section (8) that includes an expiration date for the vouchers.

19 CSR 40-11.010 Payments for Vision Examinations

(1) Beginning July 1, 2008, and continuing through the 2010–2011 school year unless extended by act of the general assembly, all public school districts shall conduct a vision screening by methods approved by the Children's Vision Commission for each student before the completion of first and third grade. The school district shall notify the parent or guardian of any child failing the vision screening, and propose that the student receive a comprehensive eye examination from an optometrist or physician.

(3) Prior to the beginning of the school year, vouchers for payment out of the BEST Program fund shall be distributed by the Missouri Department of Health and Senior Services to public school districts based on the following methodology:

(A) Calculating the number of children in first and third grade by school district;

(B) Calculating the number of children who are likely to fail the screening and require a comprehensive eye examination based on the most current estimates by the American Academy of Pediatrics;

(C) Excluding the number of the children who are eligible for MO HealthNet;

(D) Calculating the number of children in each school district eligible for assistance based on the most current estimates from Missouri Kids Count of children with no insurance and no vision insurance; and

(E) Dividing the total funds by the MO HealthNet reimbursement rate to determine the total number of exams to be reimbursed.

(4) At the time the school proposes that the student receive a comprehensive eye examination, the school district shall evaluate whether the child meets the qualifications in section (5) of this rule, and if so, may give the parent or guardian a voucher that may be used to cover the cost of the child's eye examination, if a voucher is available.

(5) To qualify for coverage under the BEST Program fund, a child must:

(A) Be enrolled in public schools in grades one or three;

(B) Have failed a vision screening provided by a public school in accordance with the standardized screening methods provided by the Children's Vision Commission;

(C) Need a comprehensive eye examination performed by a licensed optometrist or physician, as proposed by the school district;

(D) Lack any other means of insurance to provide payment for a comprehensive eye examination, as verified by the parent or guardian of the student to the school district, and be documented in writing in the child's file; and

(E) Be a legal resident of the state of Missouri.

(6) To receive payment out of the BEST Program fund, an optometrist or physician who performs a comprehensive eye examination on a

child based upon issuance of a voucher by a public school district shall complete the Missouri Eye Examination Form for School, included herein, and submit the form and voucher to the public school district. The public school district shall forward the voucher and an invoice listing the voucher number on the school district's letterhead to the Department of Health and Senior Services, Attention: School Vision Program, PO Box 670, Jefferson City, MO 65102, no later than the last day of February of the school year in which the examination was performed in order to receive reimbursement.

(7) Vouchers allocated to the school districts that have not been distributed by the last day of February of each school year shall be returned to the Department of Health and Senior Services for reallocation to other school districts.

(8) Vouchers will have an expiration date of June 30 of each year.