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SALUS POPULI SUPREMA LEX ESTO

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



JOHN R. ASHCROFT  
SECRETARY OF STATE

MISSOURI  
REGISTER

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## IN THIS ISSUE:

### EMERGENCY RULES

**Department of Higher Education and Workforce**  
**Development**  
 University of Missouri . . . . .5  
**Department of Health and Senior Services**  
 Division of Regulation and Licensure . . . . .7

### PROPOSED RULES

**Department of Agriculture**  
 Animal Health . . . . .9  
 Weights, Measures and Consumer Protection . . . . .24  
**Department of Higher Education and Workforce**  
**Development**  
 Commissioner of Higher Education and Workforce  
 Development . . . . .24  
**Department of Natural Resources**  
 Air Conservation Commission . . . . .25  
**Department of Social Services**  
 MO HealthNet Division . . . . .36  
**Department of Health and Senior Services**  
 Division of Regulation and Licensure . . . . .41

### ORDERS OF RULEMAKING

**Department of Agriculture**  
 Animal Health . . . . .42  
**Department of Conservation**  
 Conservation Commission . . . . .42  
**Department of Elementary and Secondary Education**  
 Division of Learning Services . . . . .66  
**Department of Higher Education and Workforce**  
**Development**  
 University of Missouri . . . . .66

**Department of Labor and Industrial Relations**  
 Labor and Industrial Relations Commission . . . . .66  
**Department of Mental Health**  
 Director, Department of Mental Health . . . . .66  
**Department of Social Services**  
 Division of Finance and Administrative Services . . . . .66  
**Department of Health and Senior Services**  
 Division of Regulation and Licensure . . . . .67  
**Department of Commerce and Insurance**  
 Missouri Board of Occupational Therapy . . . . .71  
 State Board of Pharmacy . . . . .71  
 Missouri Veterinary Medical Board . . . . .71

### IN ADDITIONS

**Department of Health and Senior Services**  
 Missouri Health Facilities Review Committee . . . . .73

### DISSOLUTIONS . . . . .74

### SOURCE GUIDES

**RULE CHANGES SINCE UPDATE . . . . .79**  
**EMERGENCY RULES IN EFFECT . . . . .85**  
**EXECUTIVE ORDERS . . . . .87**  
**REGISTER INDEX . . . . .88**

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
September 3, 2019 September 16, 2019	<b>October 1, 2019</b> <b>October 15, 2019</b>	October 31, 2019 October 31, 2019	November 30, 2019 November 30, 2019
October 1, 2019 October 15, 2019	<b>November 1, 2019</b> <b>November 15, 2019</b>	November 30, 2019 November 30, 2019	December 30, 2019 December 30, 2019
November 1, 2019 November 15, 2019	<b>December 2, 2019</b> <b>December 16, 2019</b>	December 31, 2019 December 31, 2019	January 30, 2020 January 30, 2020
December 2, 2019 December 16, 2019	<b>January 2, 2020</b> <b>January 15, 2020</b>	January 30, 2020 January 30, 2020	February 29, 2020 February 29, 2020
January 2, 2020 January 15, 2020	<b>February 3, 2020</b> <b>February 18, 2020</b>	February 29, 2020 February 29, 2020	March 30, 2020 March 30, 2020
February 3, 2020 February 18, 2020	<b>March 2, 2020</b> <b>March 16, 2020</b>	March 31, 2020 March 31, 2020	April 30, 2020 April 30, 2020
March 2, 2020 March 16, 2020	<b>April 1, 2020</b> <b>April 15, 2020</b>	April 30, 2020 April 30, 2020	May 30, 2020 May 30, 2020

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 [sos.mo.gov/adrules/pubsched](http://sos.mo.gov/adrules/pubsched).

## HOW TO CITE RULES AND RSMO

### RULES

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

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

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

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

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

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

### ***Code and Register on the Internet***

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

The *Code* address is [sos.mo.gov/adrules/csr/csr](http://sos.mo.gov/adrules/csr/csr)

The *Register* address is [sos.mo.gov/adrules/moreg/moreg](http://sos.mo.gov/adrules/moreg/moreg)

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

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

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

**A**ll 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.

*with protections extended in the Missouri and United States Constitutions. The director of the Missouri Agricultural Experiment Station finds a compelling governmental interest, which requires emergency action and believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 25, 2019, becomes effective January 1, 2020, and expires June 28, 2020.*

The fee provided by section 266.520, RSMo to be prescribed by rule shall be *six cents (6¢) eight cents (8¢)* per ton, two thousand (2,000) pounds of agricultural limestone, agricultural liming materials and other agricultural liming materials and other agricultural liming materials as defined in paragraphs (1)-(3) of section 266.505, RSMo (1986) sold for use in Missouri.

*AUTHORITY: section 266.520, RSMo 2016. Original rule filed Aug. 15, 1985, effective Jan. 1, 1986. Emergency amendment filed Nov. 25, 2019, effective Jan. 1, 2020, expires June 28, 2020. A proposed amendment covering this same material was published in the Missouri Register on September 16, 2019 (44 MoReg 2365-2366).*

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

*PRIVATE COST: This emergency amendment will increase annual tonnage fees during the emergency by about fifteen thousand five hundred dollars (\$15,500) based on average tonnage receipts over the past seven (7) years.*

**Title 6—DEPARTMENT OF HIGHER EDUCATION  
AND WORKFORCE DEVELOPMENT  
Division 250—University of Missouri  
Chapter 10—Administration of Missouri Agricultural  
Liming Materials Act**

**EMERGENCY AMENDMENT**

**6 CSR 250-10.030 Inspection Fee.** This emergency amendment changes the fee rate.

*PURPOSE: The emergency amendment changes the inspection fee from six cents (6¢) per ton to eight cents (8¢) per ton to be effective January 1, 2020. This will allow the authority to collect sufficient funds during the first six (6) months of year 2020 to run the authorized inspection service.*

*EMERGENCY STATEMENT: This emergency amendment informs the public that the tonnage fee for agricultural lime will increase from six cents (6¢) per ton to eight cents (8¢) per ton on January 1, 2020. The agricultural liming inspection service is currently collecting insufficient funds to cover the annual costs of inspection, analytical services and program administration.*

*This increase is essential for the continued sustainability of the program. A proposed amendment, which covers the same material, was published in September 16, 2019 issue of the Missouri Register (44 MoReg 2365-2366). The scope of this emergency amendment is limited to the circumstances creating the emergency and complies*

**FISCAL NOTE  
PRIVATE COST**

- I. Department Title: 6 - Department of Higher Education**
- Division Title: 250 – University of Missouri**
- Chapter Title: 10 – Administration of the Missouri Agricultural Liming Materials Act**

<b>Rule Number and Title:</b>	6 CSR 250-10.030 Inspection Fee
<b>Type of Rulemaking:</b>	Emergency Rule

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
200	Agricultural Lime Quarries	\$15,500 for the period 1 January 2010 – 30 June 2020

**III. WORKSHEET**

Actual: Mean Tonnage Fees Collected (FY13 – FY19) at **\$0.06/ton**: \$ 93,204  
 Projected: Mean Tonnage Fees Collected (FY13 – FY19) at **\$0.08/ton**: \$124,272

Mean additional annual tonnage fees collected at \$0.08/ton: **\$31,068**

Expected additional revenue collected during the period of this emergency rule: **\$15,500.**

**IV. ASSUMPTIONS**

Tonnage fees for sales of agricultural lime are assessed twice annually on 1 January and 1 July. For the seven-year period (FY13 - FY19) annual tonnage fees collected ranged from \$62K to \$131K.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 95—Medical Marijuana**

**EMERGENCY RULE**

**19 CSR 30-95.028 Additional Licensing Procedures**

*PURPOSE:* The Department of Health and Senior Services has the authority to promulgate rules for the enforcement of Article XIV. This rule explains what provisions are necessary for ensuring an efficient facility licensing/certification process after the initial process of scoring and ranking applications is complete.

*EMERGENCY STATEMENT:* This emergency rule informs the public of what provisions are necessary for the efficient and effective implementation of Article XIV. Section 1 of the *Missouri Constitution*, which became effective on December 6, 2018, provides that the department must approve or deny all applications for medical marijuana licenses/certificate within one hundred fifty (150) days of submission. It also provides that, when there are more applications than licenses/certificates available, the department shall implement a numerical scoring system for ranking those applications in addition to confirming each application meets minimum requirements. Finally, Article XIV dictates that the department should issue a minimum number of licenses in each facility type. There is no direction in Article XIV for how to fill open licenses/certifications if they become available soon after an initial application/scoring period. This emergency rule fills the need to specify how the department will address such a situation.

The department believes this emergency rule complies with all criteria listed for emergency rules in Section 536.025, RSMo.

*Section 536.025.1(1)—Compelling governmental interest*

The process of application review, particularly when the review must include application scoring, is costly and resource-consuming. Article XIV does not give any guidance on how to fill openings for licenses/certifications that open up within a reasonable amount of time after an initial scoring period. In light of Article XIV's clear interest in providing funding to Missouri veterans' programs through the fees and taxes related to the medical marijuana industry, it is not reasonable to assume an entirely new application period, with the expense of scoring, should ensue if a license opening is available just days after an initial scoring period. Through this emergency rule, the department has designed a procedure for filling license/certificate vacancies that balances filling such openings based on the constitutional process for review and scoring of applications and filling them without duplicating the time and expense of accepting, reviewing, and scoring such applications immediately after having done so already.

*Section 536.025.1(2)—Fairness to all*

In order to establish an emergency rule, a state agency must follow "procedures best calculated to assure fairness to all interested persons and parties under the circumstances." The process the department established for this draft rulemaking was transparent and collaborative.

Cognizant of the lack of opportunity for public input that would result from establishing an emergency rule, before filing the emergency rule, the department issued a draft rule on its website and invited the public to submit comments on that draft rule. Comments were incorporated where possible.

*Section 536.025.1(3)—Constitutional protections*

Emergency rulemaking must follow "procedures which comply with

the protections extended by the *Missouri and United States Constitutions.*" This emergency rule does not violate any Constitutional protections. On the contrary, the department's rules are designed to effectuate newly established regulatory value created by Article XIV of the *Missouri Constitution*, such as fairness and impartiality in granting licenses and certifications for medical marijuana facilities in Missouri along with preserving a new funding source for Missouri veterans' programs and support.

*Section 536.025.1(4)—Limitation of scope*

Emergency rules must be limited in scope to "the circumstances creating an emergency and requiring emergency action." The department has done exactly this in limiting this emergency rule to only what is essential for processing applications and issuing licenses for an industry more competitive by far than any estimate put forward even the day before the application window for such licenses opened.

Article XIV requires that application processing be accomplished within one hundred and fifty (150) days, even if the number of applications submitted are more than twice what was expected. The cost of conducting such a review multiple times per year as licenses/certifications become available would be staggering as it is now reasonable to assume each application window would be inundated with multiple times more applicants than available licenses/certifications, including applicants who had just recently submitted an application along with a non-refundable fee. Since it appears neither the public through Article XIV nor the department could have known the Missouri market would be so competitive, thereby necessitating the provisions of this emergency rule, it is reasonable that these provisions should be proposed as an emergency between the day applications were first received (August 3, 2019) and the day licenses/certifications must first be issued (December 31, 2019). Emergency rule filed November 26, 2019, effective December 12, 2019, and expires June 8, 2020.

(1) Confirmation and Acceptance of License/Certification. All facilities that are issued a license or certification will be given five (5) days from department notification of issuance to confirm they accept the license or certification. Notification shall be made via the email address and phone number of the applicant's designated primary contact and will include the deadline for accepting. If a facility does not affirmatively accept issuance of a license or certification within the five (5) days following notification, the license or certification will be offered to the next ranked facility, as applicable, until all available licenses and certifications are issued and accepted.

(2) Conditional Denials. All cultivation, dispensary, manufacturing, and testing facility applications that meet minimum standards as described in 19 CSR 30-95.040(4)(A) but are denied due to the results of numerical scoring shall be regarded as "conditionally denied" for a period of three hundred ninety-five (395) days for the purpose of maintaining eligibility for any licenses or certifications that become available within that time period. Conditionally denied applications will be eligible for licenses or certifications as follows:

(A) For each available license or certification of a particular facility type that may become available during a time period when there are applications that have been conditionally denied, the department will issue the license or certification to the highest ranked applicant of that facility type or, in the case of dispensaries, of that facility type and in the applicable congressional district, subject to applicable limits regarding facilities under substantially common control.

(B) Facilities issued a license or certification under this section shall be subject to all regulations and laws applicable to any other licensed or certified facilities of the same type.

(C) A conditional denial will be considered a denial for purposes of appeal under 19 CSR 30-95.025.

*AUTHORITY: sections 1.3.(1)(b) and 1.3.(2) of Article XIV, Mo. Const. Emergency rule filed Nov. 26, 2019, effective Dec. 12, 2019, expires June 8, 2020. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

*PUBLIC COST: This emergency rule will cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the aggregate.*



**U**nder 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."

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

**A**n 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.

**I**f 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*.

**A**n 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.

**I**f 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 9—Animal Care Facilities

### PROPOSED AMENDMENT

**2 CSR 30-9.010 Animal Care Facilities Definitions.** The director is amending section (2) and deleting section (3).

*PURPOSE: This amendment removes language which is duplicative or otherwise unnecessary for use in licensing, operating, and inspecting animal care facilities, and in some instances replacing redundant language with concise wording.*

(2) Definitions. As used in 2 CSR 30-9.020 and 2 CSR 30-9.030, the following terms shall mean:

*[(K) Approved flooring means elevated flooring used for a surface on which an animal stands, approved by the state*

*veterinarian, and listed on the department's website by description and specifications, as revised, except that flooring meeting the definition of wire strand flooring shall be prohibited and ineligible as approved flooring;]*

*[(L)](K) Attending veterinarian means any Doctor of Veterinary Medicine who has a valid license to practice veterinary medicine in Missouri issued by the Missouri Veterinary Medical Board and who has a written agreement to perform specified services for a licensee;*

*[(M)](L) Auction means any person selling any consignment of dog(s) or cat(s) to the highest bidder. This shall include any means, procedure, or practice in which the ownership of a dog or cat is conveyed from one (1) person to another by any type or method of bidding process. Auction sales shall be considered as brokers and must be licensed as dealers under the ACFA;*

*[(N)](M) Boarding kennel means a place or establishment, other than a pound or animal shelter, where animals, not owned by the proprietor, are sheltered, fed, and watered in return for a consideration. This term shall include all boarding activities regardless of name used, such as, but not limited to, pet sitters. However, boarding kennel shall not include hobby or show breeders who board intact females for a period of time for the sole purpose of breeding the intact females, and shall not include individuals who temporarily, and not in the normal course of business, board or care for animals owned by other individuals;*

*[(O)](N) Business hours means a reasonable number of hours between seven o'clock in the morning and seven o'clock in the evening (7:00 a.m.-7:00 p.m.), Monday through Friday, except legal state holidays, each week of the year, during which inspections may be made;*

*[(P)](O) Carrier means the operator of any airline, aircraft, railroad, motor carrier, shipping line, or other enterprise which is engaged in the business of transporting any animals for hire;*

*[(Q)](P) Cat means any live or dead *Felis catus*;*

*[(R)](Q) Commercial breeder means a person, other than a hobby or show breeder, engaged in the business of breeding animals for sale or for exchange in return for a consideration, and who harbors more than three (3) intact females for the primary purpose of breeding animals for sale. *Persons engaged in breeding dogs and cats who harbor three (3) or less intact females shall be exempt from the license requirement*;*

*[(S)](R) Commercial kennel means any kennel which performs grooming or training services for animals, and may or may not render boarding services in return for a consideration;*

*[(T)](S) Contract kennel means any facility operated by any person or entity other than the state or any political subdivision of the state, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals, on behalf of and pursuant to a contract with the state or any political subdivision;*

*[(U)](T) Covered dog means any individual of the species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids, that is over the age of six (6) months and has intact sexual organs;*

*[(V)](U) Dealer means any person who is engaged in the business of buying for resale, selling, or exchanging animals, as a principal or agent, or who holds him/herself out to be so engaged or is otherwise classified as a dealer by the USDA as defined by the regulations of the USDA. *A dealer shall purchase animals only from persons in the state who are licensed under the ACFA, or from persons who are exempt from licensure*;*

*[(W)](V) Director means the director of the Missouri Department of Agriculture;*

*[(X)](W) Dog means any live or dead *Canis lupus familiaris*;*

*[(Y)](X) Euthanasia means the act of putting an animal to death in a humane manner and shall be accomplished by a method specified as acceptable by the American Veterinary Medical Association Panel on Euthanasia;*

*[(Z)](Y) Examination means a complete physical evaluation from*

head to tail of a covered dog or cat by a licensed veterinarian to include auscultation, palpation, and a visual inspection in which the heart rate, respiratory rate, breeding soundness, and the results of palpation are assessed and recorded as indicated on the forms provided;

**[(AA)](Z)** Exhibitor means any person (public or private) exhibiting any dog or cat to the public for compensation or for a consideration of any kind whether directly or indirectly. This term excludes pet shops who are exhibiting only the animals for sale to the general public if exhibited only within the licensed facility;

**[(BB)](AA)** Exotic animals for the purpose of the ACFA means any member of the families Canidae or Felidae not indigenous to Missouri or any hybrid descendant of any member of the families Canidae or Felidae crossed with any *Canis lupus familiaris* or *Felis catus*;

**[(CC)](BB)** Extreme weather means outdoor temperatures above eighty-five degrees Fahrenheit (85 °F) or below forty-five degrees Fahrenheit (45 °F) or during a severe weather alert;

**[(DD)](CC)** Hobby or show breeder means a noncommercial breeder who breeds dogs or cats with the primary purpose of exhibiting or showing dogs or cats, improving the breed or selling the dogs or cats, and having no more than ten (10) intact females. These breeders shall be classified as a hobby or show breeder if they sell only to other breeders or to individuals. Hobby or show breeders are exempt from the licensure and inspection requirements, but must register annually with the director for the purpose of establishing that these persons are hobby or show breeders, at no cost to the hobby or show breeders. A breeder who buys or sells any animal for the primary purpose of resale does not qualify as a hobby or show breeder.

1. Registered hobby or show breeders are those meeting the definition in this subsection.

2. Licensed hobby or show breeders are those meeting the definition in this subsection with the exception of having more than ten (10) intact females. Licensed hobby or show breeders shall be required to pay the same license and per capita fees and meet the same rules, standards, and inspection requirements as the commercial breeders;

**[(EE)](DD)** Housing facility means any land, premises, shed, barn, building, trailer, or other structure or area housing or intended to house animals;

**[(FF)](EE)** Impervious surface means a surface that does not permit the absorption of fluids;

**[(GG)](FF)** Indoor housing facility means any structure or building with environmental controls, housing or intended to house animals and meeting the following requirements:

1. It must be capable of controlling the temperature within the building or structure within the limits set forth for that species of animal, of maintaining humidity levels of thirty to seventy percent (30-70%), and of rapidly eliminating odors from within the building;

2. It must be an enclosure created by the continuous connection of a roof, floor, and walls (a shed or barn set on top of the ground does not have a continuous connection between the walls and the ground unless a foundation and floor are provided); and

3. It must have at least one (1) door for entry and exit that can be opened and closed (any windows or openings which provide natural light must be covered with a transparent material such as glass or hard plastic);

**[(HH)](GG)** Inspector means any person employed by the department who is authorized to perform a function under the ACFA and these rules, or any animal welfare official as defined in this rule;

**[(II)](HH)** Intact female means, with respect to the dog, a female between the ages of six (6) months and ten (10) years that can be bred. With respect to the cat, a female between the ages of six (6) months and eight (8) years that can be bred;

**[(JJ)](II)** Intermediate handler means any person engaged in any business in which s/he receives custody of animals through boarding, ownership, or brokering in connection with their transportation in commerce. *Intermediate handlers shall be licensed under*

*authority of the ACFA.], excluding [P]persons licensed under the ACFA who are transporting animals only in the normal course of conducting their licensed business [shall not be required to be licensed as an intermediate handler, but shall be subject to all transportation regulations and standards];*

**[(KK)](JJ)** Licensee means any animal shelter, boarding kennel, commercial breeder, commercial kennel, contract kennel, dealer, intermediate handler, pet shop, and pound or dog pound licensed according to the provisions of the ACFA;

**[(LL)](KK)** Necessary veterinary care means, at minimum, examination at least once yearly by a licensed veterinarian, prompt treatment of any serious illness or injury by a licensed veterinarian, and where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed acceptable by the American Veterinary Medical Association;

**[(MM)](LL)** Outdoor housing facility means any structure, building, land, or premises, housing or intended to house animals, which does not meet the definition of any other type of housing facility provided in the rules, and in which temperatures cannot be controlled within set limits;

**[(NN)](MM)** Person means any individual, partnership, firm, joint venture, corporation, association, limited liability company, trust, estate, receiver, syndicate, or other legal entity;

**[(OO)](NN)** Pet means any species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids, normally maintained in or near the household of the owner thereof;

**[(PP)](OO)** Pet shop means any facility where animals are bought, sold, exchanged, or offered for retail sale to the general public;

**[(QQ)](PP)** Pound or dog pound means a facility operated by the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals;

**[(RR)](QQ)** Primary enclosure means any structure or device used to restrict an animal(s) to a limited amount of space, such as a room, pen, run, cage, compartment, pool, hutch, or tether;

**[(SS)](RR)** Registrant means any hobby or show breeder who has properly registered with the director according to the provisions of the ACFA;

**[(TT)](SS)** Regular exercise means the type and amount of exercise sufficient to comply with an exercise plan that has been approved by a licensed veterinarian, developed in accordance with regulations regarding exercise promulgated by the Missouri Department of Agriculture, and where such plan affords the dog maximum opportunity for outdoor exercise as weather permits;

**[(UU)](TT)** Retail pet store means a person or retail establishment open to the public where dogs are bought, sold, exchanged, or offered for retail sale directly to the public to be kept as pets, but that does not engage in any breeding of dogs for the purpose of selling any offspring for use as a pet;

**[(VV)](UU)** Sanitize means to make physically clean and to remove and destroy, to the maximum degree that is practical, agents injurious to health;

**[(WW)](VV)** Serious illness or injury means a condition or injury that would likely result in significant pain or progression of disease if not addressed within twenty-four (24) hours and would require daily or continuing treatment as determined by a veterinarian;

**[(XX)](WW)** Sheltered housing facility means a housing facility which provides the animal with shelter, protection from the elements, and protection from temperature extremes at all times. A sheltered housing facility may consist of runs or pens totally enclosed in a barn or building, or of connecting inside/outside runs or pens with the inside pens in a totally enclosed building;

**[(YY)](XX)** Standards means the requirements *[with respect to humane housing, exhibiting, handling care, treatment, temperature, and transportation of animals by animal shelters, boarding kennels, commercial breeders, commercial kennels, contract kennels, dealers, intermediate handlers, exhibitors, pet shops, and pounds or dog pounds as] set forth in 2 CSR 30-9.020 through 2 CSR 30-9.030;*

[(ZZ)](YY) State means Missouri;

[(AAA)](ZZ) State veterinarian means the state veterinarian of Missouri;

[(BBB)](AAA) Sufficient food and clean water means access to appropriate nutritious food at least twice a day sufficient to maintain good health, and continuous access to potable water that is not frozen and is generally free of debris, feces, algae, and other contaminants;

[(CCC)](BBB) Sufficient housing, including protection from the elements, means the continuous provision of a sanitary facility, the provision of a solid surface on which to lie in a recumbent position, protection from the extremes of weather conditions, proper ventilation, and appropriate space [depending on the species of animal as required by] in accordance with regulations of the Missouri Department of Agriculture;

[(DDD)](CCC) Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs means having appropriate space [depending on the species of animal as required by] in accordance with regulations of the Missouri Department of Agriculture;

[(EEE)](DDD) Transporting vehicle means any truck, car, trailer, airplane, ship, or railroad car used for transporting animals;

[(FFF)](EEE) USDA means the United States Department of Agriculture;

[(GGG)](FFF) Weaned means that an animal has become accustomed to taking solid food and has done so, without nursing, for a period of at least five (5) days; and

[(HHH)](GGG) Wire strand flooring means pliable metallic strands in any length or diameter, mesh or grill-type, with or without a coating, and used for a surface on which an animal stands.

[(3) Index.

Terms defined—section (1)

Definitions—section (2)

- ACFA—section (2), subsection (A)
- Adequate food—section (2), subsection (B)
- Adequate housing—section (2), subsection (C)
- Adequate water—section (2), subsection (D)
- Adequate rest—section (2), subsection (E)
- Adopter—section (2), subsection (F)
- Adult animal—section (2), subsection (G)
- Animal—section (2), subsection (H)
- Animal shelter—section (2), subsection (I)
- Animal welfare official—section (2), subsection (J)
- Approved flooring—section (2), subsection (K)
- Attending veterinarian—section (2), subsection (L)
- Auction—section (2), subsection (M)
- Boarding kennel—section (2), subsection (N)
- Business hours—section (2), subsection (O)
- Carrier—section (2), subsection (P)
- Cat—section (2), subsection (Q)
- Commercial breeder—section (2), subsection (R)
- Commercial kennel—section (2), subsection (S)
- Contract kennel—section (2), subsection (T)
- Covered dog—section (2), subsection (U)
- Dealer—section (2), subsection (V)
- Director—section (2), subsection (W)
- Dog—section (2), subsection (X)
- Euthanasia—section (2), subsection (Y)
- Examination—section (2), subsection (Z)
- Exhibitor—section (2), subsection (AA)
- Exotic animals—section (2), subsection (BB)
- Extreme weather—section (2), subsection (CC)
- Hobby or show breeder—section (2), subsection (DD)
- Housing facility—section (2), subsection (EE)
- Impervious surface—section (2), subsection (FF)
- Indoor housing facility—section (2), subsection (GG)
- Inspector—section (2), subsection (HH)
- Intact female—section (2), subsection (II)

Intermediate handler—section (2), subsection (JJ)

Licensee—section (2), subsection (KK)

Necessary veterinary care—section (2), subsection (LL)

Outdoor housing facility—section (2), subsection (MM)

Person—section (2), subsection (NN)

Pet—section (2), subsection (OO)

Pet shop—section (2), subsection (PP)

Pound or dog pound—section (2), subsection (QQ)

Primary enclosure—section (2), subsection (RR)

Registrant—section (2), subsection (SS)

Regular exercise—section (2), subsection (TT)

Retail pet store—section (2), subsection (UU)

Sanitize—section (2), subsection (VV)

Serious illness or injury—section (2), subsection (WW)

Sheltered housing facility—section (2), subsection (XX)

Standards—section (2), subsection (YY)

State—section (2), subsection (ZZ)

State veterinarian—section (2), subsection (AAA)

Sufficient food and clean water—section (2), subsection (BBB)

Sufficient housing—section (2), subsection (CCC)

Sufficient space—section (2), subsection (DDD)

Transporting vehicle—section (2), subsection (EEE)

USDA—section (2), subsection (FFF)

Weaned—section (2), subsection (GGG)

Wire strand flooring—section (2), subsection (HHH)

**AUTHORITY:** sections 273.344 and 273.346, RSMo [2000] 2016. Original rule filed Jan. 13, 1994, effective Aug. 28, 1994. Amended: Filed Oct. 24, 1994, effective May 28, 1995. Emergency amendment filed July 11, 2011, effective July 21, 2011, expired Feb. 23, 2012. Amended: Filed July 22, 2011, effective Jan. 30, 2012. Amended: Filed Jan. 21, 2016, effective Aug. 30, 2016. Amended: Filed Nov. 25, 2019.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment by website: <https://agriculture.mo.gov/proposed-rules/> or by mail: Missouri Department of Agriculture, attn: Animal Care Program, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days of publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 30—Animal Health  
Chapter 9—Animal Care Facilities**

**PROPOSED AMENDMENT**

**2 CSR 30-9.020 Animal Care Facility Rules Governing Licensing, Fees, Reports, Record Keeping, Veterinary Care, Identification, and Holding Period.** The director is amending sections (1)-(17), deleting section (18), and renumbering as necessary.

**PURPOSE:** This amendment removes regulations which are obsolete or duplicative. Further, this amendment removes the requirements of the voluntary Blue Ribbon Kennel program in order that kennels recognized with this designation can have best management practices defined in policy.

## (1) Application for License and Conditions of Issuing.

(B) Any person seeking a license under the provisions of the ACFA shall—

1. *[a]* Apply on a form furnished by the director*./;*  
2. *[An individual must b]* Be at least eighteen (18) years of age *[to be issued a valid license.];*

3. *[The applicant shall p]* Provide all information requested on the application form, including a valid mailing address through which the licensee or applicant can always be reached and a valid premises address where animals, animal facilities, equipment, and records shall be inspected for compliance*./ All premises, facilities, or sites where a person operates, has an interest in, or keeps animals shall be shown on the application form or on a separate sheet attached to it. The applicant shall f;*

4. File the completed application form with the director*./ Applications must be accompanied with;*

5. Submit the appropriate fee as *[required]* calculated in section (2) of this rule*./;* and

*[(C)]6. [An applicant shall o]* Obtain a separate license for each separate physical facility requiring a license according to the ACFA.

*[(D)](C)* The following persons are exempt from the licensing fees and inspection requirements:

1. Persons engaged in breeding dogs and cats who harbor three (3) or less intact females; and

2. Registered hobby and show breeders, with proof of show.

*[(E)](D)* Pounds or dog pounds are exempt from the licensing fees but must meet all other standards in 2 CSR 30-9 and will be inspected at least annually.

*[(F)](E)* Any person exempt from the licensing requirements may voluntarily apply for a license, but shall *[agree in writing to comply with the requirements set forth in the specifications for humane handling, care, treatment, and transportation of dogs and cats. Each person shall]* comply with all rules and standards of the ACFA. A voluntary license may be surrendered at any time the licensee so desires.

*[(G)]* A license shall be issued to any applicant, who has met the requirements of the ACFA, has paid the required annual license fee and the provisional license fee *(if required), and has passed the initial or annual inspection.]*

*[(H)](F)* The director may refuse to issue or renew or may revoke or suspend a license on any one (1) or more of the following grounds:

1. Material and deliberate misstatement on the application for any original license or for any renewal license;

2. Conviction of any violation of any state or federal law on the disposition or treatment of animals;

3. The failure of any person to comply with any provision of the ACFA, or any of the provisions of the standards in 2 CSR 30-9; or

4. The refusal to allow the inspector free and unrestricted access to inspect any ACFA required records, or any animal, premises, facility, area, equipment, or vehicle.

*[(I)](G)* An applicant whose check is returned by the bank will be charged a fee of fifteen dollars (\$15) for each returned check. *[One (1) returned check will be deemed nonpayment of fees and will result in denial of license. Payment of fees must then be made by certified check, cashier's check, or money order.]* An applicant shall not receive a license until payment has cleared normal banking procedures. A delay of up to thirty (30) days or more may be expected if a personal check is used for payment of fees.

*[(J)](H)* Operation of an animal shelter, boarding kennel, commercial kennel, contract kennel, pet shop, pound or dog pound, or activity as a commercial breeder, dealer, intermediate handler, or exhibitor (other than a limited show or exhibit) without a valid license is a class A misdemeanor.

*[(K)](I)* All premises licensed under the ACFA shall be inspected at least once each year, or upon a complaint to the department about a particular facility. The validity of the complaint will be determined by the state veterinarian.

*[(L)](J)* All licensees or applicants for a license or license renewal

must make his/her facilities, animals, premises, and records available for inspection during business hours or at other times mutually agreeable, in writing, to the applicant and the animal welfare official designated by the state veterinarian. *[The licensee or applicant shall also provide the inspector with sufficient space and facilities, such as a room, a table, and a chair to use in examining records and writing his/her report.]* If the licensee's or applicant's facilities, animals, premises, procedures, or records do not meet the requirements in 2 CSR 30-9.020 through 2 CSR 30-9.030, the applicant will be advised in writing of existing deficiencies and the corrective measures that must be completed in a timely manner to be in compliance with the standards*[ in 2 CSR 30-9]*. Persons or facilities which subsequently fail two (2) consecutive re-inspections for an original violation shall be charged a fee of one hundred dollars (\$100), which shall be paid before subsequent inspections will be made or the renewal of that person's or facility's license.

*[(M)](K)* The Department of Agriculture shall not retain, contract with, or otherwise utilize the services of the personnel of any non-profit organization for the purpose of inspection or licensing of any animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, commercial breeder, hobby or show breeder, or pet shop under sections 273.325 to 273.357, RSMo.

*[(N)](L)* A licensee or applicant for a license shall not interfere with, threaten, abuse (including verbal abuse), or harass any inspector or state or federal official while carrying out his/her duties.

*[(O)](M)* A license shall be issued to specific persons for specific premises, facilities, and operations and does not transfer upon change of ownership*/ or any other significant change of business or operation]*, nor is it valid at a different location. Otherwise, a license issued under 2 CSR 30-9 shall be valid and effective unless—

1. The license has been revoked or suspended pursuant to section 273.329, RSMo;

2. The license is voluntarily terminated by the written request of the licensee to the director;

3. The license has expired or has otherwise been terminated under 2 CSR 30-9.020; or

4. The applicant did not pay the license fee as required.

*[(P)](N)* There will be no refund of fees if a license is terminated for any reason before its expiration.

*[(Q)](O)* Licensees must accept delivery of registered mail or certified mail notice and provide the director notice of any change of address.

*[(R)](P)* All licenses will expire on January 31 each year and will automatically terminate at midnight on that date unless the properly completed application with the appropriate fee has been received by the director. A person whose license has been automatically terminated shall not conduct any activity *[for which a license is required by the ACFA until all requirements for issuing the license have been met and]* unless a valid license has been duly issued.

*[(S)]* Any person who seeks the reinstatement of a license that has been automatically terminated must follow the procedure applicable to new applicants for a license*./*

*[(T)](Q)* A license which is *[invalid]* suspended or revoked under 2 CSR 30-9 shall be surrendered to the director. If the license cannot be found, the licensee shall provide a written statement so stating to the director.

*[(U)](R)* Contested cases and other matters involving licensees and the director, or his designee, may be informally resolved by consent agreement, settlement, stipulation, consent order, or default.

*[(V)](S)* Whenever the state veterinarian or a state animal welfare official finds past violations of sections 273.325 to 273.357, RSMo, have occurred and have not been corrected or addressed, including operating without a valid license under section 273.327, RSMo, the director may request the attorney general or the county prosecuting attorney or circuit attorney to bring an action in circuit court in the county where the violations have occurred for a temporary restraining

order, preliminary injunction, permanent injunction, or a remedial order enforceable in a circuit court to correct such violations and, in addition, the court may assess a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for each violation. Each violation shall constitute a separate offense.

*[(W)](T)* A person commits the crime of canine cruelty if such person repeatedly violates sections 273.325 to 273.357, RSMo, so as to pose a substantial risk to the health and welfare of animals in such person's custody or knowingly violates an agreed-to remedial order involving the safety and welfare of animals under this section. The crime of canine cruelty is a class C misdemeanor, unless the person has previously pled guilty or *nolo contendere* to or been found guilty of a violation of this subsection, in which case, each such violation is a class A misdemeanor.

1. The attorney general or the county prosecuting attorney or circuit attorney may bring an action under sections 273.325 to 273.357, RSMo, in circuit court in the county where the crime has occurred for criminal punishment.

2. No action under this section shall prevent or preclude action taken under section 578.012, RSMo, or under subsection 3 of section 273.329, RSMo.

*[(X)]* Facilities designated as Blue Ribbon Kennels shall meet the following additional requirements:

1. The licensee must have no violations cited during the past year;

2. The premise must be neat and free of clutter, it must be mowed and kept free of junk, the buildings must be in good repair, and it should reflect a positive image to the general public;

3. The kennel must have a written biosecurity plan with signs posted that contain instructions for entry;

4. All dogs must be identified by microchip upon change in ownership; and

5. The licensee must be a member of the Missouri Pet Breeders Association or the Professional Pet Association and they must maintain twenty (20) hours of continuing education.]

(2) License Fees.

(A) In addition to the application for a license or license renewal, each person shall submit to the director the annual license fee [and provisional license fee (if required)] prescribed in this section[, which shows the method used to calculate the appropriate fee. The license fee shall be computed in accordance with the following and based] and calculated upon the previous year's business[:]—

1. Animal shelter—One hundred dollars (\$100), plus the annual animal shelter per capita fee for every animal sold, traded, bartered, brokered, adopted out, or given away, up to a maximum of two thousand five hundred dollars (\$2,500);

2. Pound/dog pound—No fee, but must meet the standards in 2 CSR 30-9;

3. Commercial kennel—One hundred dollars (\$100), plus the annual commercial kennel per capita fee for each board day, up to a maximum of two thousand five hundred dollars (\$2,500);

4. Boarding kennel—One hundred dollars (\$100), plus the annual boarding kennel per capita fee for each board day, up to a maximum of two thousand five hundred dollars (\$2,500);

5. Commercial breeder—One hundred dollars (\$100), plus the annual commercial breeder per capita fee for every animal sold, traded, bartered, brokered, or given away, up to a maximum of two thousand five hundred dollars (\$2,500);

6. Contract kennel—One hundred dollars (\$100), plus the annual contract kennel per capita fee for every animal sold, traded, bartered, brokered, adopted out, or given away, up to a maximum of two thousand five hundred dollars (\$2,500);

7. Dealer (also auction sale operator or broker)—One hundred dollars (\$100), plus the annual dealer per capita fee for every animal

sold, traded, bartered, brokered, or given away, up to a maximum of two thousand five hundred dollars (\$2,500);

8. Pet shop—One hundred dollars (\$100), plus the annual pet shop per capita fee for every animal sold, traded, bartered, brokered, or given away, up to a maximum of two thousand five hundred dollars (\$2,500);

9. Intermediate handler—One hundred dollars (\$100), plus a per capita fee for each board day and each animal purchased or brokered and transported up to a maximum of two thousand five hundred dollars (\$2,500). Animals which are transported only will be considered as carrier-transported and not subject to a per capita fee; and

*[10. Voluntary licensee (persons/facilities not required to be licensed by definition of the law but desire to obtain a license anyway)—One hundred dollars (\$100); and]*

*[11.]10. Hobby or show breeder—Exempt from fees and inspection requirements, [but must register annually and certify status] provided that such breeder qualifies annually for the purpose of establishing status for registration.*

(B) Per Capita Fees.

1. Per capita fees [shall be assessed annually and based upon the budgetary needs of the program. Per capita fees shall be the same for all licensees of the same type license, but may vary by type of license at the discretion of the director. The amount of the annual per capita fee shall be determined by the director and announced each year. The licensees will be notified by mail of the amount of the annual per capita fee, which shall accompany the new application forms] assessed for previous year's sales are one dollar (\$1.00) for every animal sold, traded, bartered, brokered, adopted out, or given away.

2. Per capita fees [shall range from zero cents (0¢) to not more than one dollar (\$1) for each service performed or board day per animal, or animal sold, traded, bartered, brokered, auctioned, given away, or otherwise disposed of other than by euthanasia or death] assessed for previous year's services are ten cents (\$.10) for every board day.

(C) [In the case of a new applicant for a license, the initial license fee shall be] **An initial application fee** is one hundred dollars (\$100). [Annual renewal of license shall be] **The renewal application fee** is based upon the calculations stated previously in this section.

*[(D)]* A separate license shall be obtained for each physical facility operated by the applicant.]

*[(E)](D)* Operation Bark Alert. Each licensee subject to sections 273.325 to 273.357, RSMo, shall pay an additional annual fee of twenty-five dollars (\$25) to be used by the Department of Agriculture for the purpose of administering Operation Bark Alert or any successor program.

(3) Annual Report by Licensee.

(A) Each year, [within thirty (30) days prior to the expiration date of his/her license,] the licensee shall [file with the state veterinarian an application for license renewal and an annual report] **renew their license** on forms furnished by the state veterinarian.

(B) Each year, the licensee shall submit the total number of animals sold, traded, bartered, brokered, **adopted out**, given away, or boarded[, or exhibited] during the previous year, January through December, and any other information required on the form.

(4) Acknowledgment of Rules and Standards. The director will supply a copy of the ACFA and the rules and standards [to all new applicants. All applicants must acknowledge receipt of the rules and the standards prior to issuance of a license] **upon request of any prospective applicant or licensee.**

(5) Notification of Change in Business Licensed. [A licensee shall

*promptly notify the state veterinarian by certified mail of*  
a) Any change in the name, address, management, substantial control and ownership of the business or operation, *[of any significant change in the operation of the business or operation,] or of additional sites, shall be provided to the state veterinarian* within ten (10) days of the change.

(6) Activity by Persons/Facilities Whose Licenses Have Been Suspended or Revoked.

(B) Any facility involved in an order of suspension or revocation shall—

1. *[n/Not be used for licensed activity[.]; and*

*[(C) Any person whose license has been suspended or revoked for any reason shall]*

2. *[n/Not be licensed under his/her name, or in any other manner within the period during which the suspension or revocation is in effect. [No partnership, firm, corporation, or other legal entity in which any such person has a substantial interest, financial or otherwise, will be licensed during that period.]*

*[(D) Any person whose license has been suspended or revoked shall]*

3. *[n/Not buy, sell, trade, barter, broker, transport, board, exhibit, or deliver for transportation any animal during the period of license suspension or revocation.*

*[(E)](C) Any person whose license has been suspended or revoked may apply in writing to the director for reinstatement of his/her license.*

(7) Denial of Initial License Application.

(A) A license will not be issued to any applicant who—

1. Is not in total compliance with the rules and the standards set forth in 2 CSR 30-9, including the payment of fees[.];

A. An initial applicant for license will be allowed a maximum of three (3) inspections and a period of up to ninety (90) days from the date of the first inspection in which to attain total compliance with the rules and standards prior to denial of license. Failure of these inspections would not subject an initial applicant to the one hundred dollar (\$100)-penalty fee for failed inspections. However, initial license fee will not be returned and subsequent applications must be accompanied with another initial license fee[.]; **and**

*[B. An initial applicant shall not conduct any activity for which an ACFA license is required until the license has been issued.*

*C. Subsequent applications by a person who has been denied a license under subparagraph (7)(A)1.A. shall also be considered an initial application.]*

*[D.]B. Persons denied a license under subparagraph (7)(A)1.A. may reapply after six (6) months from the date of the last failed inspection[.];*

2. Has had a license revoked or is currently under suspension;

3. Has been fined, sentenced to jail, or pled no contest under state or local animal cruelty laws within one (1) year of application, except that if no penalty is imposed as a result of a no contest plea, the applicant may reapply immediately; or

4. Has made any false or fraudulent statements or provided any false or fraudulent records to the department.

(B) Any applicant whose initial license has been denied may request an administrative hearing in accordance with Chapter 536, RSMo, for the purpose of showing why the application should not be denied. If the license denial is upheld, the applicant may reapply for license one (1) year from the date of the denial.

*[(C)] No partnership, firm, corporation, or other legal entity in which a person whose license application has been denied has a substantial interest, financial or otherwise, will be licensed within one (1) year of denial.*

(8) Attending Veterinarian and Adequate Veterinary Care.

(A) Each licensee shall have an attending veterinarian who shall

provide adequate veterinary care to animals covered under the rules in 2 CSR 30-9.020 through 2 CSR 30-9.030;

(B) Each licensee shall establish and maintain programs of adequate veterinary care that include:

1. The availability of appropriate facilities, personnel, equipment, and services to comply with the provisions in 2 CSR 30-9.020 through 2 CSR 30-9.030;

2. The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

3. Individual health records shall be maintained on all animals above the age of eight (8) weeks or that have been weaned or that have been treated with a medical procedure, whichever occurs first. Litter health records may be kept on litters when littermates are treated with the same medication or procedure. Health records (or a copy) may accompany all animals upon the transfer of ownership;

4. Daily observation of all animals to assess their health and well-being. Provided, however, that daily observation of animals may be accomplished by someone other than the attending veterinarian; and provided further, that *[a mechanism of direct and frequent communication is required so that timely and accurate information on] problems of animal health, behavior, and well-being is conveyed to the attending veterinarian in a timely manner;*

5. Adequate training and guidance to personnel involved in the care and use of animals. The employer must be certain his/her employees can perform at the level required by these rules; and

6. Adequate pre-procedural and post-procedural care in accordance with established veterinary medical and nursing procedures.

(C) Each licensee subject to the provisions of section 273.345, RSMo, shall establish and maintain programs of veterinary care that include:

1. Examination as defined in 2 CSR 30-9.010(2)/(Z)/(Y) at least once yearly by a licensed veterinarian, and upon detection of any affliction, a comprehensive examination, diagnosis, and appropriate treatment. Provided however, at the discretion of the attending veterinarian, any subsequent treatment may be carried out by somebody other than the attending veterinarian. An individual health examination shall be prescribed, conducted, and recorded on forms furnished by the state veterinarian;

2. Consultation on sound breeding practices, including a written and signed recommendation on reproductive health for individual female covered dogs that accounts for species, age, and health of the breeding dogs under care of the licensee. An individual recommendation shall be recorded on forms furnished by the state veterinarian;

3. Animal health and husbandry. Review of disease prevention techniques, vaccination protocols, parasite protocols, pest control, nutrition, euthanasia, and guidance on preventative care. Approval of these practices must be certified by the attending veterinarian and included with the written program of veterinary care; and

4. Approval of an exercise plan developed in accordance with regulations regarding exercise prescribed in these rules and where such plan affords the dog maximum opportunity for outdoor exercise as weather permits.

(D) Each licensee subject to the provisions of section 273.345, RSMo, shall ensure that animals with serious illness or injury as defined in 2 CSR 30-9.010(2) (W/W/U) receive prompt treatment by a licensed veterinarian.

(E) If the state veterinarian or his/her designee finds that an animal or group of animals is suffering from a contagious, communicable, or infectious disease or exposure to a disease, a quarantine to the premises may be issued until the animals *[are—] meet the provisions for release as established by the state veterinarian.*

*[1. Recovered and no longer capable of transmitting the disease;*

*2. Isolated;*

*3. Humanely euthanized and properly disposed of;*

*4. Tested, vaccinated, or otherwise treated; or*

5. *Otherwise released by the state veterinarian.*

A. *Animals under quarantine shall not be removed from the premises without written consent of the state veterinarian, nor shall any other animals be allowed to enter the premises.*

B. *A quarantine issued by the state veterinarian shall remain in effect until released in writing by the state veterinarian.*

(F) Animals with obvious signs of disease or injury shall not be sold or shipped (except on the advice of the attending veterinarian and with the knowledge and consent of the purchaser), abandoned, or disposed of in an inhumane manner.

*[(G) A person licensed or registered under the ACFA shall not knowingly sell or ship a diseased animal, except on the advice of their attending veterinarian and with the knowledge and consent of the purchaser.]*

(9) Identification of Animals.

(B) All licensees without a USDA license shall identify all dogs and cats held on the premises, purchased, boarded, sheltered, or otherwise acquired, sold, released, given away, or otherwise disposed of or removed from the premises for any reason to or through any person, by one (1) or more of the appropriate methods as follows:

1. By an official tag of the type described in this section affixed to the animal's neck by means of a collar made of a material generally considered acceptable to pet owners. In general, well fitting collars made of plastic or leather will be acceptable. The use of certain types of chains presently used by some dealers may also be acceptable if sharp edges cannot be felt which may reasonably be expected to cause discomfort to the animal. The use of materials such as wire, elastic, or any other material which may seem to cause discomfort to the animal shall not be used;

2. A distinctive and legible tattoo marking *[approved by the director]*;

3. Puppies or kittens, less than sixteen (16) weeks of age, may be identified by a plastic type collar acceptable to the director which has the information legibly placed on the collar *[as required for an official tag]* pursuant to this section;

4. Animal shelters, contract kennels, pounds or dog pounds may use distinctive cage cards. Cage cards, if used, must be sequentially numbered, used in sequential order and placed in an area which will prevent animals, water, or cleaning solutions from contacting them or damaging the cards. If cage cards cannot be protected, or if licensee fails to provide proper protection, all animals in his/her facility must be identified by a more permanent method as described in paragraph (9)(B)1. Each cage card must fully and completely describe the animal to which it is assigned including breed (or an estimate of predominant breed and cross, and the like), size, date of birth or approximate age, sex, color and markings, and any other distinctive feature or marking;

5. Boarding kennels and commercial kennels *[shall be authorized to]* may use distinctive cage cards. **Boarding kennels and commercial kennels may use any abbreviated form of information on the cage cards that meets the needs of their business if all of the information listed in this paragraph is immediately available to the animal caretaker and inspector.** Cage cards, if used, must:

A. *[b]*Be placed in an area which will prevent animals, water, or cleaning solutions from contacting or damaging the cards/. *Cage cards must*;

B. *[p]*Provide a brief description of the animal including name, breed, sex, color, and distinctive markings/. *Cage cards must also*; and

C. *[s]*Specify any medications with directions for administering, any special needs or instructions, and emergency instructions stating veterinarian of choice and telephone number/. *Boarding kennels and commercial kennels may use any abbreviated form of information on the cage cards that meets the needs*

*of their business if all of the information listed in this paragraph is immediately available to the animal caretaker and inspector*]; and

6. Pet shops may use distinctive cage cards. Cage cards, if used as the primary identification, must be—

A. *[s]*Sequentially numbered and used in sequential order/. *Cage cards, if used, must be*;

B. *[p]*Placed in an area which will prevent animals, water, or cleaning solutions from contacting them or damaging the cards/. *Cage cards, if used as the primary identification, must*; and

C. *[p]*Provided with enough information to assure proper identification of all animals in the enclosure and may include information such as a brief description of the animal including breed, sex, date of birth or approximate age, color, and distinctive markings.

*[(G) The official tag shall be made of a durable alloy such as brass, bronze, steel, or a durable plastic. Aluminum of a sufficient thickness to assure the tag is durable and legible may also be used. The tag shall be one (1) of the following shapes:*

1. *Circular in shape and not less than one and one-fourth inches (1 1/4") in diameter; or*

2. *Oblong and flat in shape, not less than two inches long by three-fourths inch (2" × 3/4") wide and riveted to an acceptable collar.]*

*[(H)](G)* Each official tag shall have the following information embossed or stamped on one (1) side that is easily readable:

1. *The [letters MO];*

2. *The letters and numbers] information identifying the licensee or facility, for example, AC/FA/123456; and*

*[3.]2. The [number] information identifying the animal, for example, 0006.*

*[(I)](H)* Licensees must obtain the official tags or cage cards at their own expense. *[Tags and cards are available from commercial manufacturers. At the time a licensee is issued a license, the director will assign a license number to be used on official tags.]*

*[(J)](I)* Each licensee shall be held accountable for all official tags acquired. In the event an official tag is lost from an animal while in the possession of the licensee, the licensee will make every diligent effort to locate and reapply the tag to the proper animal. If the lost tag is not located, the licensee shall affix another official tag to the animal and record both the old and new tag numbers on the official records. Only the new number will be used on subsequent transactions.

*[(K) When an animal with an official tag is euthanized or dies from any other cause, the official tag shall be removed from the animal and saved for a period of one (1) year following the death. If the official tag is removed from an animal at the time of disposition of the animal, the official tag shall be saved for a period of one (1) year following the disposition.]*

*[(10) Prohibition on the Purchase, Sale, Use or Transportation of Stolen Animals. No person shall buy, sell, exhibit, transport, or offer for transport any stolen animal.]*

*[(11)](10)* Records.

(A) Records for Commercial Breeders, Dealers, Exhibitors, Intermediate Handlers, and Voluntary Licensees.

1. Each commercial breeder, dealer (other than operators of auction sales and brokers to whom animals are consigned), intermediate handlers, exhibitors, and voluntary licensees shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each dog or cat purchased or otherwise acquired, owned, held, or otherwise in his/her possession or control which is transported, euthanized, sold, or otherwise disposed of by that licensee. These records shall include any offspring born of any animal while in his/her possession or under his/her control:

A. The name and complete mailing address of the person from whom a dog or cat was purchased or otherwise received or acquired whether or not the person is required to be licensed or registered under this Act;

B. The USDA and the ACFA license or registration number of the person if s/he is licensed or registered under the Acts. Both USDA and ACFA numbers are required if seller is licensed or registered under both Acts;

C. The vehicle license number and the state, *[and]* or the driver's license number and state if s/he is not licensed or registered under either of the Acts;

D. The name and complete mailing address of the person to whom a dog or cat was sold, given, or delivered, and that person's license or registration number(s) if s/he is licensed or registered under the Acts;

E. The date a dog or cat was acquired or disposed of, or both, and the method of disposition, including by death or euthanasia;

F. The official USDA or ACFA tag number or tattoo assigned to a dog or cat;

G. A description of each dog or cat which shall include:

(I) The species and breed or type;

(II) The sex;

(III) The date of birth or approximate age; and

(IV) The color and any distinctive markings;

H. The method of transportation including the name of the initial carrier or intermediate handler or, if a privately owned vehicle is used to transport a dog or cat, the name of the owner of the privately owned vehicle;

I. Records of Dogs and Cats on hand (*IVS Form 18-5/APHIS Form 7005* or similar form may be used) and Records of Disposition of Dogs or Cats (*IVS Form 18-6/APHIS Form 7006* or similar form may be used) shall be maintained by commercial breeders, dealers, exhibitors, and voluntary licensees;

J. *[The USDA Interstate and International Certificate of Health Examination for Small Animals (VS Form 18-1)] State approved forms* may be used by dealers and exhibitors to make, keep, and maintain the information required by subsection (11)(A) of this rule; and

K. One (1) copy of the record containing the information required by this section shall accompany each shipment of any dog or cat purchased or otherwise acquired by a commercial breeder, dealer, or exhibitor. One (1) copy of the record containing the information required by this section shall accompany each shipment of any dog or cat sold or otherwise disposed of by a commercial breeder, dealer, or exhibitor; *provided, however, that information which indicates the source and date of acquisition of a dog or cat need not appear on the copy of the record accompanying the shipment*. One (1) copy of the record *[containing the information required by this section]* shall be retained by the commercial breeder, dealer, or exhibitor.

2. Individual medical records shall be maintained on all animals bought, raised, or otherwise obtained, held, kept, maintained, sold, donated, or otherwise disposed of, including by death or euthanasia, which shall specify all treatments and medications given and all procedures performed on the animal, to include reasons for or the condition requiring the treatment, medication, or procedure, and the results of the treatment, medication, or procedure will be included in this record. Litter health records may be kept on litters when all littermates are treated with the same medication or procedure. Medical records (or a copy) may accompany the animal when sold.

3. All records shall be maintained for a period of one (1) year, unless the director requests in writing that they be maintained for a longer period, for the purpose of investigation.

(B) Records of Operators of Auction Sales and Brokers.

1. Every broker or operator of an auction sale shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each animal sold, whether or not a

fee or commission is charged:

A. The name and complete mailing address of the person who owned or consigned the animal(s) for sale;

B. The name and complete mailing address of the buyer or consignee who received the animal;

C. The USDA and ACFA license or registration number of the person(s) selling, consigning, buying, or receiving the animals if s/he is licensed or registered under the Acts;

D. The vehicle license number and state *[and]* or the driver's license number and state of the person, if s/he is not licensed or registered under the Acts;

E. The date of the consignment;

F. The official USDA or ACFA tag number assigned to the animal(s) under this rule;

G. A description of the animal(s) which shall include:

(I) The species and breed or type;

(II) The sex of the animal;

(III) The date of birth or approximate age; and

(IV) The color and any distinctive markings;

H. The auction sales number or records number assigned to the animal; and

I. The name, mailing address, any USDA/ACFA license number of all people registering at the auction to buy animals.

2. One (1) copy of the record *[containing the information required by this section]* shall be given to the consignor of each animal, one (1) copy of the record shall be given to the purchaser of each animal; *provided however, that information which indicates the source and date of consignment of any animal need not appear on the copy of the record given to the purchaser of any animal.*, and *[O]ne* (1) copy of the record *[containing the information required by this section]* shall be retained by the broker or operator of the auction sale for each animal sold.

3. All records shall be maintained for a period of one (1) year, unless the director requests in writing that they be maintained for a longer period, for the purpose of investigation.

(C) Records for Boarding Kennels and Commercial Kennels.

1. Every operator of a boarding kennel or commercial kennel shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each animal boarded, or otherwise kept or maintained, sold, given, or otherwise disposed of:

A. Name, address, and phone number of pet owner;

B. Emergency contact number;

C. Animal's name, age, sex, and breed;

D. Vaccination information, with official rabies;

E. Preexisting physical problems;

F. Medication information and instructions;

G. Veterinarian of choice;

H. Special feeding instructions, if needed;

I. Special boarding instructions, if needed;

J. Any additional services to be performed;

K. Date animal received; and

L. Date animal released.

2. Animal cage card must be attached to the primary enclosure of every animal being boarded, kept, or maintained.

3. The record of daily health observations, medications, and treatments given and exercise periods shall be maintained.

4. The name and complete mailing address of the person to whom the animal was sold or given, and the USDA or ACFA license numbers, or both, if that person was licensed under the Acts.

5. A copy of the health certificate for each animal shipped interstate.

6. All records shall be maintained for a period of sixty (60) days except on those animals on which a complaint was made by the owner or if some other problem occurred during boarding, those records shall be kept for one (1) year, unless the director requests in writing that they be maintained for a longer period, for the purpose



of investigation.

(D) Records for Animal Shelters, Contract Kennels, and Pounds or Dog Pounds.

1. Every operator of an animal shelter, contract kennel, pound, or dog pound shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each animal boarded, housed, retained, or otherwise kept or maintained, transported, sold, given, adopted out, released, or otherwise disposed of:

A. The date of acquisition;

B. The name and complete mailing address of the person from whom the animal was obtained;

C. The vehicle license number and state, [and] or the driver's license number and state of the person delivering the animal;

D. A complete description of the animal including breed or type, sex, size, approximate weight, approximate age, color, and any distinctive markings;

E. Date of disposition and method;

F. The name and complete mailing address of the person to whom the animal was sold, given, released to, or adopted by, and the USDA or ACFA license numbers, or both, if the person was licensed under the Acts;

G. Spay or neuter contract; and

H. Veterinary certification of spay or neuter.

2. Animal cage card must be attached to the primary enclosure of every animal being held, retained, kept, or maintained.

3. The record of daily health observations, medications and treatments given, and exercise periods shall be maintained.

4. All records shall be maintained for a period of one (1) year, unless the director requests in writing that they be maintained for a longer period, for the purpose of investigation.

(E) Records for Pet Shops.

1. Every operator of a pet shop shall make, keep, and maintain records or forms which fully and correctly disclose the following concerning each animal purchased or otherwise acquired, kept or maintained, transported, sold, given, released, or otherwise disposed of:—

A. The name and complete mailing address of the person from whom the animal was obtained;

B. The USDA or ACFA license number, or both, of the seller if s/he was licensed under the Acts;

C. The vehicle license number and state, [and] or the driver's license number and state of the person delivering the animal if the seller is not licensed under the Acts;

D. A complete description of the animal, including breed or type, sex, size, approximate weight, or a combination of these, date of birth or approximate age, color, and any distinctive markings, including any official tag number or tattoo markings;

E. Date of acquisition;

F. Date of disposition and method; and

G. The name and complete mailing address and telephone number of the person to whom the animal was sold, given, released to, or otherwise disposed of.

2. Animal cage card, if used, must be attached to the primary enclosure of every animal being held, retained, kept, or maintained.

3. The record of daily health observations, medications, and treatments given shall be maintained.

4. Shot records and a copy of treatment, medications, and medical procedures performed on the animal, while in the possession of the licensee, may be furnished to the retail pet purchaser. Medical records, to the extent possible may accompany the animal when sold.

5. All records shall be maintained for a period of one (1) year, unless the director requests in writing that they be maintained for a longer period, for the purpose of investigation.

(F) Records for Carriers and Intermediate Handlers.

[1. In connection with all live animals accepted for shipment on a cash on delivery (C.O.D.) basis or other arrangement or practice under which the cost of the animals or the

transportation of the animals is to be paid and collected upon delivery of the animals to the consignee, the accepting carrier or intermediate handler, if any, shall keep and maintain a copy of the consignor's written guarantee for the payment of transportation charges for any animal not claimed as provided in USDA regulations including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for out-of-pocket expenses incurred for the care, feeding, and storage of the animal. The carrier or intermediate handler at destination shall also keep and maintain a copy of the shipping document containing the time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee as provided in USDA regulations.

2.] In connection with all live dogs or cats delivered for transportation, in commerce to any carrier or intermediate handler, by any commercial breeder, dealer, research facility, exhibitor, operator of an auction sale, broker, pet shop, or any other person licensed under the ACFA, or department, agency, or instrumentality of the United States or of any state or local government, the accepting carrier or intermediate handler shall keep and maintain a copy of the health certificate completed [as required by USDA regulations and Missouri] in accordance with state and federal regulations, tendered with each live dog or cat.

(G) Health Certification and Identification.

1. No commercial breeder, dealer, exhibitor, operator of an auction sale, broker, pet shop, research facility, voluntary licensee, or any department, agency, or instrumentality of the United States or of any state or local government shall deliver to any intermediate handler or carrier for transportation in interstate commerce or shall transport in interstate commerce any dog or cat unless the dog or cat is accompanied by a health certificate executed and issued by a licensed veterinarian. The health certificate shall state that—

A. The licensed veterinarian inspected the dog or cat on a specified date which shall not be more than ten (10) days prior to the delivery of the dog or cat for transportation; and

B. When so inspected, the dog or cat appeared to the licensed veterinarian to be free of any infectious disease or physical abnormality which would endanger the animal(s) or endanger public health.

[2. The United States Secretary of Agriculture, with concurrence of the director, may provide exception to the health certification requirement on an individual basis for animals shipped to a research facility for purposes of research, testing, or experimentation when the research facility requires animals not eligible for certification.]

[3.]2. No intermediate handler or carrier to whom any live dog or cat is delivered for transportation by any commercial breeder, dealer, exhibitor, broker, pet shop, research facility, operator of an auction sale, or any department, agency, or instrumentality of the United States or any state or local government shall receive a live dog or cat for transportation in interstate commerce, unless and until it is accompanied by a health certificate issued by a licensed veterinarian.

[4.]3. [The United States Interstate and International Certificate of Health Examination of Small Animals (VS Form 18-1)] State approved forms may be used for health certification by a licensed veterinarian as required by this section.

[5.]4. Intrastate shipments, which at no time leave the state, may utilize an owner/shipper statement in lieu of a health certificate. The owner/shipper statement must specify the date of shipment, name, address, phone number, and ACFA/USDA license numbers of consignor and consignee of the shipment, specify species and list each animal in the shipment by its individual ACFA/USDA number, breed, age, sex, color, and distinctive markings, vaccination history, and certify— "To the best of my knowledge, all animals in this shipment are healthy and have not been exposed to an infectious or contagious disease."

The statement must contain the signature, printed name, address, and phone number of the certifying individual. *[APHIS Form 7001 may be used as a guide to produce individual forms, if desired.]*

*[(H) C.O.D. Shipments.*

1. *No carrier or intermediate handler shall accept any animal for transportation in commerce upon any C.O.D. or other basis where any money is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of all transportation, including any return transportation, if the shipment is unclaimed or the consignee cannot be notified in accordance with this section, including reimbursing the carrier or intermediate handler for all out-of-pocket expenses incurred for the care, feeding, and storage or housing of the animals.*

2. *Any carrier or intermediate handler receiving an animal at a destination on a C.O.D. or other basis any money is to be paid and collected upon delivery of the animal to the consignee shall attempt to notify the consignee at least once every six (6) hours for a period of twenty-four (24) hours after arrival of the animal at the animal holding area of the terminal cargo facility. The carrier or intermediate handler shall record the time, date, and method of each attempted notification and the final notification to the consignee, and the name of the person notifying the consignee on the shipping document and on the copy of the shipping document accompanying the C.O.D. shipment. If the consignee cannot be notified of the C.O.D. shipment within twenty-four (24) hours after its arrival, the carrier or intermediate handler shall return the animal to the consignor, or to whomever the consignor has designated, on the next practical available transportation, in accordance with the written agreement required in this section and shall notify the consignor. Any carrier or intermediate handler which has notified a consignee of the arrival of a C.O.D. or other shipment of an animal, where any money is to be paid and collected upon delivery of the animal to the consignee, which is not claimed by the consignee within forty-eight (48) hours from the time of notification shall return the animal to the consignor or to whomever the consignor has designated, on the next practical available transportation in accordance with the written agreement required in this section and shall notify the consignor.*

3. *It is the responsibility of any carrier or intermediate handler to hold, feed, and care for any animal accepted for transportation in commerce under a C.O.D. or other arrangement where any money is to be paid and collected upon delivery of the animal until the consignee accepts shipment at destination or until returned to the consignor or his/her designee should the consignee fail to accept delivery of the animal or if the consignee could not be notified as prescribed in this section.*

4. *Nothing in this section shall be construed as prohibiting any carrier or intermediate handler from requiring any guarantee in addition to that required in this section for the payment of the cost of any transportation or out-of-pocket or other incidental expenses incurred in the transportation of any animal.]*

*[(I)](H) Disposition of Records.*

1. No licensee, for a period of one (1) year, shall destroy or dispose of, without the consent in writing of the director, any books, records, documents, or other papers required to be kept and maintained under the ACFA and this rule.

2. Unless otherwise specified, the records required to be kept and maintained under this rule shall be held for one (1) year after an animal is euthanized or disposed of and for any period in excess of one (1) year as necessary to comply with any applicable federal, state, or local laws. Whenever the director notifies the licensee in

writing that specified records shall be retained pending completion of an investigation or proceeding under the ACFA, the licensee shall hold those records until their disposition is authorized by the director.

3. Any person subject to the provisions of section 273.345, RSMo, shall maintain all veterinary records and sales records for the most recent previous two (2) years. These records shall be made available to the state veterinarian, a state or local animal welfare official, or a law enforcement agent upon request.

*[(12)](11) Compliance With Standards and Holding Periods.* Each licensee shall comply in all respects with the standards set forth in 2 CSR 30-9.020 through 2 CSR 30-9.030 for the humane handling, care, treatment, housing, and transportation of animals.

*[(13)](12) Holding Period.*

(A) Any live dog or cat, other than owner-relinquished or feral animals which are not known to have bitten anyone within the preceding ten (10) days, acquired by an animal shelter or contract kennel shall be held for a period of not less than five (5) business days before offering for adoption or euthanasia *[except that before releasing an animal to a dealer, the holding period must include at least one (1) full Saturday and a period of not less than five (5) full days excluding time in transit].*

(B) Any live dog or cat acquired by a commercial breeder, dealer, exhibitor, or pet shop shall be held under his/her supervision and control, for a period of not less than five (5) full days, not including the day of acquisition, after acquiring the animal, excluding time in transit; *provided, however—*

1. *That any live dog or cat acquired by a commercial breeder, dealer, exhibitor, or pet shop from any private or contract animal pound, animal shelter, pound or dog pound shall be held by that commercial breeder, dealer, exhibitor, or pet shop for a period of not less than ten (10) full days, not including the day of acquisition, after acquiring the animal, excluding time in transit].*

(C) Any dog or cat presented for euthanasia by its owner or any animal suffering from disease, emaciation, or injury may be destroyed by euthanasia prior to the completion of the holding period required by this section.

(D) Any dog or cat, one hundred twenty (120) days of age or less, that was obtained from the person that bred and raised the animal, may be exempted from the five- (5-) day holding requirement and may be sold or otherwise disposed of by a licensee after a minimum holding period of twenty-four (24) hours, excluding time in transit. Each subsequent licensee must also hold that animal for a minimum of twenty-four (24) hours excluding time in transit. Intermediate handlers who obtain an animal one hundred twenty (120) days of age or less, only in conjunction with its transportation in commerce will be exempt from the twenty-four- (24-) hour holding period.

(E) During the period in which any animal is being held as required by this section, the animal shall be unloaded from any means of conveyance in which it was received, for food, water, and rest, and shall be handled, cared for, and treated in accordance with 2 CSR 30-9.020 through 2 CSR 30-9.030.

*[(14)](13) Miscellaneous.*

(A) Information as to business shall be furnished by all licensees.

*[1.]* Each licensee shall furnish to any department official any information concerning the business of the licensee which the department official may request in connection with the enforcement of the provisions of the ACFA and 2 CSR 30-9.020 through 2 CSR 30-9.030. *[The information shall be furnished within a reasonable time and as may be specified in the request for information.]*

*[2.]* Each operator of an auction sale shall furnish in writing to the director the sale dates of all activities covered under the ACFA at least two (2) weeks prior to the scheduled

event.]

(B) Access and Inspection of Records and Property.

[1.] Each licensee, during business hours, shall allow department officials to—

[A.]1. Enter its place of business;

[B.]2. Examine records required to be kept in accordance with the ACFA and this rule;

[C.]3. Make copies of the records;

[D.]4. Inspect and photograph the facilities, property, and animals as the department officials consider necessary to enforce the provisions of the ACFA and the standards in 2 CSR 30-9.020 through 2 CSR 30-9.030; and

[E.]5. Document, by the taking of photographs and other means, conditions and areas of noncompliance.

[2. *The use of a room, table, or other facilities necessary for the proper examination of the records and inspections of the property or animals shall be extended to department officials by the licensee.*]

(C) Inspection for Missing Animals. Each licensee shall allow, upon request and during business hours, police or officers of other law enforcement agencies with general law enforcement authority (not those agencies whose duties are limited to enforcement of local animal rules) to enter his/her place of business to inspect animals and records for the purpose of seeking animals that are missing, under the following conditions:

1. The police or other law officer shall furnish to the licensee a written description of the missing animal and the name and address of its owner before making a search; and

2. The police or other law officer shall abide by all security measures required by the licensee to prevent the spread of disease, including the use of sterile clothing, footwear, and masks where required, or to prevent the escape of an animal.

(D) Confiscation and Destruction of Animals.

1. If an animal being held by a licensee or transported by a carrier is found by a department official to be suffering as a result of the failure of the licensee or carrier to comply with any provisions of the ACFA or the standards set forth in 2 CSR 30-9.020 through 2 CSR 30-9.030, the department official shall make a reasonable effort to notify the licensee of the condition of the animal(s) and request that the condition be corrected and that adequate care be given to alleviate the animal's suffering or distress, or that the animal(s) be destroyed by euthanasia. In the event that the licensee refuses to comply with this request, the department official may confiscate the animal(s) for care, treatment, or disposal as indicated in this section, if, in the opinion of the director, the circumstances indicate the animal's health is in danger.

2. In the event that the department official is unable to locate or notify the licensee as required in this section, the department official shall contact a local police or other law officer to accompany him/her to the premises and shall provide for adequate care when necessary to alleviate the animal's suffering. If in the opinion of the director, the condition of the animal(s) cannot be corrected by this temporary care, the department official shall confiscate the animal(s).

3. Confiscated animals may be placed, by sale or donation, with other licensees or registrants who are in compliance with the ACFA and the standards in 2 CSR 30-9.020 through 2 CSR 30-9.030 and can provide proper care, or they may be euthanized. The licensee from whom the animals were confiscated shall bear all costs incurred in performing the placement or euthanasia activities authorized by this rule.

(E) Minimum Age Requirements. No dog or cat shall be delivered by any person to any carrier or intermediate handler for transportation, in commerce, or shall be transported in commerce by any person, except to a registered research facility, unless that dog or cat is at least eight (8) weeks of age and has been weaned.

(F) Handling of Animals.

[1. *Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause*

*trauma, overheating, excessive cooling, behavioral distress, physical harm, or unnecessary discomfort.*

2. *Physical abuse shall not be used to train, work, or otherwise handle animals.*

3. *Deprivation of food or water shall not be used to train, work, or otherwise handle animals; provided however, that the short-term withholding of food or water from animals by exhibitors is allowed by this rule as long as each of the animals affected receives its full dietary and nutrition requirements each day.*

4. *During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance or barriers, or both, between the animal and the general viewing public so as to assure the safety of animals and the public.*

A. *Performing animals shall be allowed a rest period between performances at least equal to the time for one (1) performance.*

B. *Young or immature animals shall not be exposed to rough or excessive public handling or exhibited for periods of time which would be detrimental to their health or well-being.*

C. *Drugs, such as tranquilizers, shall not be used to facilitate, allow, or provide for public handling of the animals.*

D. *Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being.*

E. *A responsible, knowledgeable, and readily identifiable employee or attendant must be present at all times during periods of public contact.*

F. *During public exhibitions, dangerous animals such as lions, tigers, or wolves must be under the direct control and supervision of a knowledgeable and experienced animal handler.*

G. *If public feeding of animals is allowed, the food must be provided by the animal facility and shall be appropriate to the type of animal and its nutritional needs and diet.*]

**1. All handling and public exhibition of animals shall be in accordance with Code of Federal Regulations, Title 9, Chapter 1, Subchapter A, Part 2, Subpart I, Section 2.131.**

[5.]2. All euthanasia of animals shall be accomplished by a method approved by the *AVMA Guidelines for the Euthanasia of Animals*: 2013 Edition, as incorporated by reference in this rule, as published by the American Veterinary Medical Association, 1931 N Meacham Road, Schaumburg, IL 60173, phone number: 1-800-248-2862, website: www.avma.org. This rule does not incorporate any later amendments or additions.

[(15)](14) Procurement of Dogs and Cats by Licensees.

(A) A dealer may obtain dogs and cats from within this state only from other licensees who are licensed under the ACFA in accordance with this rule or exempt sources.

(B) No person shall obtain live dogs or cats by use of false pretenses, misrepresentation, or deception.

[(C) *Any licensee or exhibitor who also operates a public or private pound, animal shelter, contract pound, pound or dog pound shall comply with the following:*

1. *The animal pound or shelter shall be located on premises that are physically separated from all other licensed facilities. The animal housing facility of the pound or shelter shall not be adjacent to any other licensed facility.*

2. *Accurate and complete records shall be separately maintained by the licensee and by the pound or shelter. All records shall be in accordance with those specified in this rule. If the animals are lost or stray, the pound or shelter records shall provide:*

A. *An accurate description of the animal;*

*B. How, where, from whom and when the dog or cat was obtained;*

*C. How long the dog or cat was held by the pound or shelter before being transferred to the dealer; and*

*D. The date the dog or cat was transferred to the dealer.]*

*[(16) Licensees Restricted in Sales to Brokers, Dealers, and Pet Shops. Licensees shall not sell to brokers, dealers, or pet shops operating within the state who are not licensed under the ACFA in accordance with this rule.]*

*[(17)](15) Exotic Animals. Exotic animals as defined in rules promulgated under the ACFA shall be permitted, as may be required by, and maintained under the rules and standards of the Missouri Department of Conservation and the regulations and standards of the USDA.*

*[(18) Index.*

*Application For License—section (1)*

*Who must license—section (1), subsection (A)*

*How to apply for a license—section (1), subsection (B)*

*Who is exempt from licensing requirement—section (1), subsection (D)*

*Voluntary license—section (1), subsection (F)*

*Conditions under which license is issued—section (1), subsection (G)*

*Conditions under which license is not issued—section (1), subsection (H)*

*Penalty for operating without a license—section (1), subsection (J)*

*Frequency of inspection—section (1), subsection (K)*

*Licensees must make facility available—section (1), subsection (L)*

*Penalty for failure of inspection—section (1), subsection (L)*

*Licensee not to interfere with inspector—section (1), subsection (M)*

*License issued to specific person and place—section (1), subsection (N)*

*License fees not refundable—section (1), subsection (P)*

*Licensee must accept registered or certified mail—section (1), subsection (Q)*

*Expiration of license—section (1), subsection (R)*

*Reinstatement of a license—section (1), subsection (S)*

*Invalid license to be surrendered—section (1), subsection (T)*

*License Fees—section (2)*

*Computing annual fee—section (2), subsection (A)*

*Animal shelter—section (2), subsection (A), paragraph*

*1. Pound/dog pound—section (2), subsection (A), paragraph 2.*

*Commercial kennel—section (2), subsection (A), paragraph 3.*

*Boarding kennel—section (2), subsection (A), paragraph*

*4. Commercial breeder—section (2), subsection (A), paragraph 5.*

*Contract kennel—section (2), subsection (A), paragraph*

*6. Dealer—section (2), subsection (A), paragraph 7.*

*Pet shop—section (2), subsection (A), paragraph 8.*

*Intermediate handler—section (2), subsection (A), paragraph*

*9. Voluntary licensee—section (2), subsection (A), paragraph 10.*

*Hobby or show breeder—section (2), subsection (A),*

*paragraph 11.*

*Per capita fees—section (2), subsection (B)*

*Initial license fee, new applicant—section (2), subsection (C)*

*Each facility requires separate license—section (2), subsection (D)*

*Annual Report Required—section (3)*

*Acknowledgment of Rules and Standards—section (4)*

*Notification of Change in Business or Address—section (5)*

*Activity by Persons/Facilities Whose License Have Been Suspended or Revoked—section (6)*

*Denial of Initial License Application—section (7)*

*Attending Veterinarian and Adequate Veterinary Care—section (8)*

*Identification of Animals—section (9)*

*Licensees with USDA license—section (9), subsection (A)*

*Licensees without USDA license may use—section (9), subsection (B)*

*Official tag—section (9), subsection (B), paragraph 1.*

*Approved tattoo—section (9), subsection (B), paragraph*

*2. Puppies/kittens under sixteen (16) weeks—section (9), subsection (B), paragraph 3.*

*Animal shelters, contract kennels, pounds/dog pounds—section (9), subsection (B), paragraph 4.*

*Boarding kennels, commercial kennels—section (9), subsection (B), paragraph 5.*

*Pet shops—section (9), subsection (B), paragraph 6.*

*All animals must be officially identified at acquisition—section (9), subsection (C)*

*Previous identification which may be used—section (9), subsection (D)*

*How to use tags—section (9), subsection (E)*

*Restriction on use of numbers—section (9), subsection (F)*

*Official tags, construction of—section (9), subsection (G)*

*Official tags, required information—section (9), subsection (H)*

*Official tags, obtaining—section (9), subsection (I)*

*Official tags, accountability—section (9), subsection (J)*

*Official tags, disposition of—section (9), subsection (K)*

*Prohibited Activity, Stolen Animals—section (10)*

*Records—section (11)*

*Commercial breeders, dealers, exhibitors, intermediate handlers, and voluntary licensees—section (11), subsection (A)*

*Auction sales and brokers—section (11), subsection (B)*

*Boarding kennels and commercial kennels—section (11), subsection (C)*

*Animal shelters, contract kennels, pounds, and dog pounds—section (11), subsection (D)*

*Pet shops—section (11), subsection (E)*

*Carriers and intermediate handlers—section (11), subsection (F)*

*Health certification and identification—section (11), subsection (G)*

*C.O.D. shipments—section (11), subsection (H)*

*Disposition of records—section (11), subsection (I)*

*Compliance With Standards and Holding Periods—section (12)*

*Holding Period—section (13)*

*Miscellaneous—section (14)*

*Licensee, shall furnish information—section (14), subsection (A)*

*Licensee, shall permit access—section (14), subsection (B)*

*Inspection for missing animals—section (14), subsection (C)*

*Confiscation, destruction of animals—section (14), subsection (D)*

*Minimum age for selling/shipping dog or cat—section (14), subsection (E)*

*Handling of animals—section (14), subsection (F)*

*Quality of handling—section (14), subsection (F), paragraph 1.*

*Physical abuse not permitted—section (14), subsection (F), paragraph 2.*

*Deprivation, food/water not permitted—section (14), subsection (F), paragraph 3.*

*Public exhibition—section (14), subsection (F), paragraph 4.*

*Performing animals—section (14), subsection (F), paragraph 4., subparagraph A.*

*Public handling of immature animals—section (14), subsection (F), paragraph 4., subparagraph B.*

*Use of tranquilizers/drugs—section (14), subsection (F), paragraph 4., subparagraph C.*

*Exhibition, time/conditions—section (14), subsection (F), paragraph 4., subparagraph D.*

*Public contact, attendant required—section (14), subsection (F), paragraph 4., subparagraph E.*

*Dangerous animals—section (14), subsection (F), paragraph 4., subparagraph F.*

*Public feeding—section (14), subsection (F), paragraph 4., subparagraph G.*

*Procurement of Dogs and Cats—section (15)*

*Restriction of Sales—section (16)*

*Exotic Animals—section (17)]*

**AUTHORITY:** sections 273.344 and 273.346, RSMo [2000] 2016. Original rule filed Jan. 13, 1994, effective Aug. 28, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 25, 2019.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment by website: <https://agriculture.mo.gov/proposed-rules/> or by mail: Missouri Department of Agriculture, attn: Animal Care Program, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days of publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 30—Animal Health  
Chapter 9—Animal Care Facilities**

**PROPOSED AMENDMENT**

**2 CSR 30-9.030 Animal Care Facilities Minimum Standards of Operation and Transportation.** The director is amending sections (1) and (3) and deleting section (4).

**PURPOSE:** This amendment removes the requirement of listing individual manufacturer's specifications for approved flooring. This amendment removes the requirements for vehicles which are not under the general enforcement of Missouri Department of

Agriculture.

(1) Facilities and Operating Standards.

(F) Primary Enclosures. Primary enclosures for animals must meet the following minimum requirements:

1. General requirements.

A. Primary enclosures must be designed and constructed of suitable materials so that they are structurally sound. The primary enclosure must be kept in good repair.

B. Primary enclosures must be constructed and maintained so that they—

(I) Have no sharp points or edges that could injure the animals;

(II) Protect the animals from injury;

(III) Contain the animals securely;

(IV) Keep other animals from entering the enclosure;

(V) Enable the animals to remain dry and clean;

(VI) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the animals;

(VII) Provide sufficient shade to shelter all the animals housed in the primary enclosure at one time;

(VIII) Provide all the animals with easy and convenient access

to clean food and water;

(IX) Enable all surfaces in contact with the animals to be readily cleaned and sanitized in accordance with this rule, or be replaceable when worn or soiled;

(X) Have floors that are constructed in a manner that protects the animals' feet and legs from injury and that, if elevated construction, must be constructed of materials strong enough to prevent sagging and with a mesh small enough that will not allow the animals' feet to pass through any openings in the floor. If the floor of the primary enclosure is constructed of elevated flooring, a solid resting surface(s) or a perforated surface(s) with holes small enough to prevent any portion of the animals' feet or toes to pass through that, in the aggregate, is large enough to hold all the occupants of the primary enclosure at the same time comfortably must be provided; and

(XI) Provide sufficient space to allow each animal to turn about freely, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner.

C. Any primary enclosure subject to the provisions of section 273.345, RSMo shall meet the following standards for elevated flooring:

(I) Wire strand flooring shall be prohibited;

(II) Slatted flooring must be flat, no less than one and one-half inches (1.5") in width, and constructed of materials strong enough to prevent sagging and with openings that will not allow the animals' feet to pass through any openings in the floor. Any premanufactured slatted flooring must be described by specifications, listed on the approved flooring list maintained by the state veterinarian, and posted on the department's website, as revised];

(III) Plastic flooring must be constructed of materials strong enough to prevent sagging and with openings that will not allow the animals' feet to pass through any openings in the floor. Any premanufactured flooring must be described by specifications, listed on the approved flooring list maintained by the state veterinarian, and posted on the department's website, as revised];

(IV) [Expanded m]Metal flooring coated with a flexible plastic surface must be constructed of materials strong enough to prevent sagging and with openings that will not allow the animals' feet to pass through any openings in the floor. The coating must be maintained in such a manner that the animal is not allowed to come into contact with the metal. Any premanufactured flooring must be described by specifications, listed on the approved flooring

*list maintained by the state veterinarian, and posted on the department's website, as revised]; and*

(V) Galvanized *[expanded]* metal flooring must be constructed of materials strong enough to prevent sagging and with openings that will not allow the animals' feet to pass through any openings in the floor. Galvanized *[expanded]* metal flooring must have a flat surface that is free of rust and sharp points/. *Any pre-manufactured flooring must be described by specifications, listed on the approved flooring list maintained by the state veterinarian, and posted on the department's website, as revised];*

## 2. Additional requirements for cats.

A. Space. Each cat, including weaned kittens, that is housed in any primary enclosure must be provided minimum vertical space and floor space as follows:

(I) Each primary enclosure housing cats must be at least twenty-four inches (24") high or sixty and ninety-six hundredths centimeters (60.96 cm). Temporary housing such as queening cages may be reduced to a height of eighteen inches (18") or forty-five and seventy-two hundredths centimeters (45.72 cm) to reduce injury to kittens;

(II) Cats up to and including eight and eight-tenths (8.8) pounds or four (4) kilograms must be provided with at least three (3.0) square feet or twenty-eight hundredths (0.28) square meters;

(III) Cats over eight and eight-tenths (8.8) pounds or four (4) kilograms must be provided with at least four (4.0) square feet or thirty-seven hundredths (0.37) square meters;

(IV) Each queen with nursing kittens must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by the attending veterinarian. If the additional amount of floor space for each nursing kitten is equivalent to less than five percent (5%) of the minimum requirement for the queen, the housing must be approved by the state veterinarian; and

(V) The minimum floor space required by this section is exclusive of any food or water pans. The litter pan may be considered part of the floor space if properly cleaned and sanitized.

B. Compatibility. All cats housed in the same primary enclosure must be compatible, as determined by observation. Not more than twelve (12) adult nonconditioned cats may be housed in the same primary enclosure. Queens in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, queens with litters may not be housed in the same primary enclosure with other adult cats, and kittens under four (4) months of age may not be housed in the same primary enclosure with adult cats, other than the dam or foster dam. Cats with a vicious or aggressive disposition must be housed separately.

C. Litter. In all primary enclosures, a receptacle containing sufficient clean litter must be provided to contain excreta and body wastes.

D. Resting surfaces. Each primary enclosure housing cats must contain a resting surface(s) that, in the aggregate, is large enough to hold all the occupants of the primary enclosure at the same time comfortably. The resting surfaces must be elevated, impervious to moisture, and be able to be easily cleaned and sanitized or easily replaced when soiled or worn.

(I) Low resting surfaces that do not allow the space under them to be comfortably occupied by the animal will be counted as part of the floor space. Floor space under low resting surfaces shall not be counted as floor space to meet the minimum space requirements.

(II) Elevated resting surfaces will not be required for short-term housing, **housed three (3) months or less**, facilities such as boarding kennels, commercial kennels, contract kennels, pet shops, and pounds or dog pounds, however, elevated resting surfaces may be properly installed to increase floor space to that required in this rule; and

## 3. Additional requirements for dogs.

### A. Space.

(I) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus six inches (6"); then divide the product by one hundred forty-four (144). The calculation is: (length of dog in inches plus six (6)) times (length of dog in inches plus six (6)) equals required floor space in square inches. Required floor space in inches divided by one hundred forty-four (144) equals required floor space in square feet.

(II) Each bitch with nursing puppies must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by the attending veterinarian. If the additional amount of floor space for each nursing puppy is less than five percent (5%) of the minimum requirement for the bitch, this housing must be approved by the state veterinarian.

(III) The interior height of a primary enclosure must be at least six inches (6") higher than the head of the tallest dog in the enclosure when it is in a normal standing position.

(IV) Permanent tethering of dogs is prohibited for use as a primary enclosure. Temporary tethering of dogs is prohibited for use as a primary enclosure unless written approval is obtained from the state veterinarian.

B. Compatibility. All dogs housed in the same primary enclosure must be compatible, as determined by observation. Not more than twelve (12) adult nonconditioned dogs may be housed in the same primary enclosure. Bitches in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, bitches with litters may not be housed in the same primary enclosure with other adult dogs, and puppies under four (4) months of age may not be housed in the same primary enclosure with adult dogs, other than their dam or foster dam. Dogs with a vicious or aggressive disposition must be housed separately.

C. Additional space requirements for dogs subject to the provisions of section 273.345, RSMo, shall be based upon the minimum amount of floor space as calculated from part (1)(F)3.A.(I) of this rule and multiplied by factor or added to the total living area as prescribed in this rule.

(I) The minimum allowable space for primary enclosures subject to the provisions of section 273.345, RSMo, shall be calculated as follows:

(a) Dogs housed singly. Any dogs housed singly must have their minimum amount of floor space as calculated from part (1)(F)3.A.(I) of this rule (minimum amount of floor space) and multiplied by a factor of six (6);

(b) Dogs housed as a pair. Any dogs housed as a pair must have their minimum amount of floor space as calculated from part (1)(F)3.A.(I) of this rule (minimum amount of floor space) and multiplied by a factor of three (3);

(c) Dogs housed in small groups of three (3) to four (4). Any dogs housed in small groups of three (3) to four (4) shall have the largest two (2) dogs calculated from part (1)(F)3.A.(I) of this rule (minimum amount of floor space) and multiplied by a factor of three (3), with each additional dog being provided additional space at one hundred percent (100%) of the same formula; and

(d) Dogs housed in large groups of five (5) to six (6). Any dogs housed in large groups of five (5) to six (6) must have their minimum amount of floor space as calculated from part (1)(F)3.A.(I)

of this rule (minimum amount of floor space) and multiplied by a factor of three (3). No more than six (6) adult dogs may be housed in the same primary enclosure.

Common examples under part (1)(F)3.C.(I)

	Single	Pair	Group of 3	Group of 4	Group of 5	Group of 6
18 inch dog	24 sq ft	24 sq ft	28 sq ft	32 sq ft	60 sq ft	72 sq ft
30 inch dog	54 sq ft	54 sq ft	63 sq ft	72 sq ft	135 sq ft	162 sq ft
42 inch dog	96 sq ft	96 sq ft	112 sq ft	128 sq ft	240 sq ft	288 sq ft

(II) Exemptions.

(a) Covered dogs subject to the provisions of section 273.345, RSMo, may be exempted from the space requirements of this rule for the purpose of documented treatment for veterinary purposes, provided that they meet space requirements under part (1)(F)3.A.(I) of this rule.

(b) Female covered dogs subject to the provisions of section 273.345, RSMo, may be exempted from the space requirements of this rule when they are within two (2) weeks of their whelping date and eight (8) weeks post parturition, provided that they meet space requirements under part (1)(F)3.A.(II) of this rule.

(3) Transportation Standards.

(C) Primary conveyances (motor vehicle, rail, air, and marine).

1. The animal cargo space of primary conveyances used to transport dogs and cats must be designed, constructed, and maintained in a manner that at all times protects the health and well-being of the animals transported in them, ensures their safety and comfort, and prevents the entry of engine exhaust from the primary conveyance during transportation.

2. The animal cargo space must have a supply of air that is sufficient for the normal breathing of all the animals being transported in it.

3. Each primary enclosure containing dogs or cats must be positioned in the animal cargo space in a manner that provides protection from the elements and that allows each dog or cat enough air for normal breathing.

4. During air transportation, dogs and cats must be held in cargo areas that are heated or cooled as necessary to maintain an ambient temperature that ensures the health and well-being of the dogs or cats. The cargo areas must be pressurized when the primary conveyance used for air transportation is not on the ground, unless flying under eight thousand feet (8,000'). Dogs and cats must have adequate air for breathing at all times when being transported.

5. During surface transportation, auxiliary ventilation, such as fans, blowers, or air conditioning, must be used in any animal cargo space containing live dogs or cats when the ambient temperature within the animal cargo space reaches eighty-five degrees Fahrenheit (85°F) or twenty-nine and five-tenths degrees Celsius (29.5°C). Moreover, the ambient temperature may not exceed eighty-five degrees Fahrenheit (85°F) or twenty-nine and five-tenths degrees Celsius (29.5°C) for more than four (4) hours; nor fall below forty-five degrees Fahrenheit (45°F) or seven and two-tenths degrees Celsius (7.2°C) for a period of more than four (4) hours.

6. Primary enclosures must be positioned in the primary conveyance in a manner that allows the dogs and cats to be quickly and easily removed from the primary conveyance in an emergency.

7. The interior of the animal cargo space must be kept clean.

8. Live dogs and cats may not be transported with any material, substance (for example, dry ice), or device in a manner that may reasonably be expected to harm the dogs and cats or cause inhumane conditions.

[9. Motor vehicles used to transport animals in Missouri by persons subject to the ACFA must be mechanically sound, must have a current state inspection, and must have proof of insurance.]

[(4) Index.

Facilities and Operating Standards—section (1)

Housing facilities, general—section (1), subsection (A)

Structure and construction—section (1), subsection (A), paragraph 1.

Condition and site—section (1), subsection (A), paragraph 2.

Surfaces—section (1), subsection (A), paragraph 3.

Water and electric power—section (1), subsection (A), paragraph 4.

Storage—section (1), subsection (A), paragraph 5.

Drainage and waste disposal—section (1), subsection (A), paragraph 6.

Washrooms and sinks—section (1), subsection (A), paragraph 7.

Fire detection and extinguishers—section (1), subsection (A), paragraph 8.

Indoor housing facilities—section (1), subsection (B)

Heating, cooling and temperature—section (1), subsection (B), paragraph 1.

Ventilation—section (1), subsection (B), paragraph 2.

Lighting—section (1), subsection (B), paragraph 3.

Interior surfaces—section (1), subsection (B), paragraph 4.

4.

Sheltered housing facilities—section (1), subsection (C)

Heating, cooling, and temperature—section (1), subsection (C), paragraph 1.

Ventilation—section (1), subsection (C), paragraph 2.

Lighting—section (1), subsection (C), paragraph 3.

Shelter from the elements—section (1), subsection (C), paragraph 4.

Surfaces—section (1), subsection (C), paragraph 5.

Outdoor housing facilities—section (1), subsection (D)

Restrictions—section (1), subsection (D), paragraph 1.

Shelter from the elements—section (1), subsection (D), paragraph 2.

Construction—section (1), subsection (D), paragraph 3.

Mobile or traveling facilities—section (1), subsection (E)

Heating, cooling, and temperature—section (1), subsection (E), paragraph 1.

Ventilation—section (1), subsection (E), paragraph 2.

Lighting—section (1), subsection (E), paragraph 3.

Primary enclosure—section (1), subsection (F)

General requirements—section (1), subsection (F), paragraph 1.

Space/additional requirements for cats—section (1), subsection (F), paragraph 2.

Space/additional requirements for dogs—section (1), subsection (F), paragraph 3.

Animal Health and Husbandry Standards—section (2)

Compatible grouping—section (2), subsection (A)

Exercise for dogs—section (2), subsection (B)

Feeding—section (2), subsection (C)

Watering—section (2), subsection (D)

Cleaning, sanitization, housekeeping and pest control—section (2), subsection (E)

Employees—section (2), subsection (F)

Transportation Standards—section (3)

Consigning animals—section (3), subsection (A)

Primary enclosure—section (3), subsection (B)

Primary conveyance—section (3), subsection (C)

Food and water requirements—section (3), subsection (D)

Care in transit—section (3), subsection (E)

Terminal facilities—section (3), subsection (F)

Handling—section (3), subsection (G)]

AUTHORITY: sections 273.344 and 273.346, RSMo [2000] 2016. Original rule filed Jan. 13, 1994, effective Aug. 28, 1994. For

intervening history, please consult the *Code of State Regulations*. Amended: Filed Nov. 25, 2019.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment by website: <https://agriculture.mo.gov/proposed-rules/> or by mail: Missouri Department of Agriculture, attn: Animal Care Program, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days of publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 90—Weights, Measures and Consumer  
Protection  
Chapter 30—Petroleum Inspection**

**PROPOSED AMENDMENT**

**2 CSR 90-30.040 Quality Standards for Motor Fuels.** The division is amending section (1).

**PURPOSE:** This amendment changes the vapor pressure tolerance for ethanol blended fuels containing nine percent (9%) or up to and including fifteen percent (15%) ethanol per U.S. EPA 40 CFR 80.27(d).

(1) Regulation Regarding Quality of Motor Fuels. The following fuels when sold, offered for sale, or when used in this state shall meet the following requirements:

(C) All automotive gasoline containing oxygenated additives shall meet the requirements set in ASTM D4814 and the following requirements:

1. When methanol is blended in quantities greater than three tenths (0.3) volume percent, the finished blend shall contain at least an equal amount of butanol or higher molecular weight alcohol;

2. When gasoline contains nine percent (9%) [to ten percent (10%)] or up to and including fifteen percent (15%) ethanol, a vapor pressure tolerance not exceeding one pound per square inch (1.0 psi) is allowed in accordance with U.S. EPA per 40 CFR 80.27(d) from June 1 through September 15;

3. When gasoline contains one percent (1%) or up to and including fifteen percent (15%) ethanol, a one pound per square inch (1.0 psi) vapor pressure tolerance is allowed for volatility classes A, B, C, and D from September 16 through May 31;

4. When gasoline contains one percent (1%) or up to and including fifteen percent (15%) ethanol, a one-half pound per square inch (0.5 psi) vapor pressure tolerance is allowed for volatility class E from September 16 through May 31; and

5. The vapor pressure exceptions in paragraphs (1)(C)2., 3., and 4. of this rule will remain in effect until ASTM incorporates changes to the vapor pressure maximums for ethanol blends;

**AUTHORITY:** sections 414.142 and 414.300, RSMo 2016. This rule was previously filed as 2 CSR 90-30.030. Emergency rule filed Dec. 1, 1987, effective Jan. 1, 1988, expired March 1, 1988. Original rule filed Oct. 16, 1987, effective Feb. 11, 1988. For intervening history, please consult the *Code of State Regulations*. Amended Filed: Nov. 25, 2019.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Department of Agriculture, Weights, Measures and Consumer Protection Division, Fuel Quality Program, PO Box 630, Jefferson City, MO 65102, or online at [Agriculture.Mo.Gov/proposed-rules/](https://agriculture.mo.gov/proposed-rules/). 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 6—DEPARTMENT OF HIGHER EDUCATION  
AND WORKFORCE DEVELOPMENT  
Division 10—Commissioner of Higher Education and  
Workforce Development  
Chapter 2—Student Financial Assistance Programs**

**PROPOSED AMENDMENT**

**6 CSR 10-2.190 A+ Scholarship Program.** The Department of Higher Education and Workforce Development is amending section (3).

**PURPOSE:** This amendment changes the policies of the Coordinating Board for Higher Education regarding institutional and student eligibility for student financial assistance under the A+ Scholarship program in accordance with changes to section 160.545, RSMo.

(3) Eligibility Policy.

(A) To qualify for A+ tuition reimbursement, an initial recipient must meet the following criteria:

1. Attend an A+ designated high school or high schools for at least [three (3)] two (2) years prior to graduation and graduate from an A+ designated high school. Enrollment during the [three (3)] two (2) years in which the student was in attendance at one (1) or more A+ designated high schools must total a minimum of eighty percent (80%) of the instructional days required by the high school from which the student graduates. Interruptions in enrollment cumulatively totaling no more than twenty percent (20%) of instructional days in the [three (3)] two (2) years in which the student was in attendance at one (1) or more A+ designated high schools may occur consecutively or intermittently;

2. Make a good faith effort to first secure all available federal sources of funding that could be applied to the A+ Scholarship reimbursement;

3. Be a U.S. citizen or permanent resident;

4. Enter into a written agreement with the A+ designated high school prior to high school graduation;

5. Graduate from an A+ designated high school with an overall grade point average of at least two and one-half (2.5) on a four-point (4.0) scale, or the equivalent on another scale;

6. Have at least a ninety-five percent (95%) attendance record overall for grades nine through twelve (9–12);

7. Have performed fifty (50) hours of unpaid tutoring or mentoring, of which up to twenty-five percent (25%) may include job shadowing, prior to high school graduation, except—

A. When there are circumstances beyond a student's control, the high school may extend the time period for completing this requirement on a case-by-case basis, not to exceed six (6) months beyond high school graduation;

8. Beginning with the high school senior class of 2015, meet one (1) of the following indicators of college preparedness, unless the A+ school district has met all of the Department of Elementary and Secondary Education's (DESE) requirements for waiver of the Algebra I end-of-course exam for the recipient:

A. Have achieved a score of proficient or advanced on the official Algebra I end-of-course exam, or a higher level DESE approved end-of-course exam in the field of mathematics; or



B. Meet other criteria established by the CBHE. The CBHE will develop these criteria in consultation with participating A+ institutions and A+ designated high schools and may revise these criteria annually;

9. Have maintained a record of good citizenship and avoidance of the unlawful use of drugs and/or alcohol while in grades nine through twelve (9–12). Student participation in the Constitution Project of Missouri may be included in a student’s record of good citizenship in accordance with the A+ designated high school’s policy;

10. Be admitted as a regular student, enroll in an eligible program, and attend on a full-time basis a participating institution, except that students in the following circumstances may be enrolled less than full time:

A. The student is enrolled in all of the available hours applicable to the student’s program of study in a given term;

B. The student is participating in a required internship; or

C. The student is enrolled in prerequisite courses that do not require full-time enrollment;

11. Not be enrolled or intend to use the award to enroll in a course of study leading to a degree in theology or divinity;

12. Not have a criminal record preventing receipt of federal Title IV student financial aid;

13. Meet the institution’s definition of satisfactory academic progress as determined by the participating institution’s policies as applied to other students at the participating institution receiving assistance under federal Title IV student financial aid programs, with the exception of cumulative grade point average (CGPA). The student must achieve a minimum CGPA of two (2.0) on a four-point (4.0) scale, or the equivalent on another scale, at the end of the fall semester for semester-based programs, or at the end of the initial payment period for non-semester based programs. The calculation of CGPA shall be based on the participating institution’s policies as applied to other students in similar circumstances; and

14. For students that receive a positive net disbursement in a given term, maintain eligibility by meeting the following course completion standards. A course is considered complete if the student earns a standard grade for the course, including a failing grade but excluding a grade at withdrawal prior to completion:

A. Complete a minimum of twelve (12) semester credit hours in the fall or spring semester, six (6) credit hours in the summer term, or the equivalent, for students enrolled full-time in an eligible credit hour program. Students unable to satisfy the statutory minimum requirements for full-time status under the federal Title IV student financial aid programs as a result of a disability as defined by Title II of the Americans with Disabilities Act must complete a minimum of six (6) credit hours, or the equivalent, in any term;

B. Complete a minimum of ninety percent (90%) of the clock hours required for the federal payment period, for students enrolled full-time in an eligible clock hour program; or

C. Complete all of the hours in which the student is enrolled in a given term, for students enrolled less than full-time in accordance with subparagraphs (3)(A)10.A.–C. of this rule.

(B) To qualify for tuition reimbursement under the A+ Scholarship program, a renewal recipient must meet the following criteria:

1. Be admitted as a regular student, enroll in an eligible program, and attend on a full-time basis a participating institution, except that students in the following circumstances may be enrolled less than full time:

A. The student is enrolled in all of the available hours applicable to the student’s program of study in a given term;

B. The student is participating in a required internship; or

C. The student is enrolled in prerequisite courses that do not require full-time enrollment;

2. Meet the institution’s definition of satisfactory academic progress as determined by the participating institution’s policies as applied to other students at the participating institution receiving assistance under federal Title IV student financial aid programs, with the exception of cumulative grade point average (CGPA). The student

must achieve a minimum CGPA of two and one-half (2.5) on a four-point (4.0) scale, or the equivalent on another scale. The calculation of CGPA shall be based on the participating institution’s policies as applied to other students in similar circumstances. **The renewal recipient must have met these satisfactory academic progress and CGPA requirements through the term immediately before the term in which reimbursement is sought;**

3. For students that receive a positive net disbursement in a given term, maintain eligibility by meeting the following course completion standards. A course is considered complete if the student earns a standard grade for the course, including a failing grade but excluding a grade at withdrawal prior to completion:

A. Complete a minimum of twelve (12) semester credit hours in the fall or spring semester, six (6) credit hours in the summer term, or the equivalent, for students enrolled full-time in a credit hour program. Students unable to satisfy the statutory minimum requirements for full-time status under the federal Title IV student financial aid programs as a result of a disability as defined by Title II of the Americans with Disabilities Act must complete a minimum of six (6) credit hours, or the equivalent, in any term;

B. Complete a minimum of ninety percent (90%) of the clock hours required for the federal payment period, for students enrolled full-time in a clock hour program; or

C. Complete all of the hours in which the student is enrolled in a given term, for students enrolled less than full-time in accordance with subparagraphs (3)(A)10.A.–C. of this rule; and

4. Make a good-faith effort to secure all federal sources of funding that could be applied to tuition before the award is disbursed, but no later than the deadline established by the CBHE.

(C) The department will review written appeals of its eligibility policy in the following circumstances:

1. The student failed to make a good-faith effort to secure all federal sources of funding that could be applied to tuition; or

2. The student failed to meet the grade point average requirement as a result of a documented medical reason.

*AUTHORITY: section 160.545, RSMo Supp. [2018] 2019 and Executive Order 10-16, dated January 29, 2010. Original rule filed Feb. 17, 2011, effective Oct. 30, 2011. For intervening history, please consult the Code of State Regulations. Amended Filed: Nov. 22, 2019.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Higher Education and Workforce Development, General Counsel, PO Box 1469, Jefferson City, MO 65102-1469. 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 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 5—Air Quality Standards and Air Pollution  
Control Rules Specific to the St. Louis Metropolitan  
Area**

**PROPOSED AMENDMENT**

**10 CSR 10-5.390 Control of Emissions From [Manufacture] the Manufacturing of Paints, Varnishes, Lacquers, Enamels, and Other Allied Surface Coating Products.** The commission proposes to amend the title, rule purpose, and sections (1)–(3); move current

sections (4)–(6) to new subsections (3)(A)–(3)(C); and add new sections (4) and (5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules).

*PURPOSE: The purpose of this proposed amendment is to restructure the rule into the standard rule organization format, add definitions of terms used in the rule to the definitions section (including terms being removed from the stand alone definitions rule), add alternative test methods, clarify rule language, change the title to match the Kansas City counterpart rule, and remove the unnecessary use of restrictive words. The evidence supporting the need for this proposed amendment, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.*

*PURPOSE: This rule specifies operating equipment requirements and operating procedures for the reduction of volatile organic compounds from the [manufacture] manufacturing of paints, varnishes, lacquers, enamels, and other allied surface coating products in the St. Louis [metropolitan]1997 eight (8)-hour ozone nonattainment area.*

*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) *[Application] Applicability.*

(A) This rule *[shall apply]* applies throughout St. Louis City and Jefferson, St. Charles, Franklin, and St. Louis Counties.

(B) This rule applies to all installations which have the uncontrolled potential to emit more than two hundred fifty kilograms (250 kg) per day or one hundred (100) tons per year of volatile organic compounds (VOCs) from the *[manufacture] manufacturing* of paints, varnishes, lacquers, enamels, and other allied surface coating products.

(2) Definitions *[of certain terms specified in this rule may be found in 10 CSR 10-6.020].*

(A) **Add-on control device**—An air pollution control device, such as a thermal oxidizer or carbon adsorber, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

(B) **Condenser**—Any heat transfer device used to liquefy vapors by removing their latent heats of vaporization including, but not limited to, shell and tube, coil, surface, or contact condensers.

(C) **Control device**—Any equipment that reduces the quantity of a pollutant that is emitted to the air. The device may destroy or secure the pollutant for subsequent recovery. Includes, but is not limited to, incinerators, carbon adsorbers, and condensers.

(D) **Director**—Director of the Missouri Department of Natural Resources or a representative designated to carry out the duties as described in 643.060, RSMo.

(E) **Installation**—All source operations including activities that result in fugitive emissions, that belong to the same industrial grouping (that have the same two (2)-digit code as described in the Standard Industrial Classification Manual, 1987), and any

marine vessels while docked at the installation, located on one (1) or more contiguous or adjacent properties and under the control of the same person (or persons under common control).

(F) **Paints and allied products**—Materials such as paints, inks, adhesives, stains, varnishes, shellacs, putties, sealers, caulks, and other coatings from raw materials that are intended to be applied to a substrate and consists of a mixture of resins, pigments, solvents, and/or other additives.

(G) **Paints, varnishes, lacquers, enamels, and other allied surface coating products manufacturing**—The production of paints and allied products, the intended use of which is to leave a dried film of solid material on a substrate. Typically, the manufacturing processes that produce these materials are described by Standard Industry Classification (SIC) codes 285 or 289 and North American Industry Classification System (NAICS) codes 3255 and 3259 and are produced by physical means, such as blending and mixing, as opposed to chemical synthesis means, such as reactions and distillation. Paints, varnishes, lacquers, enamels, and other allied surface coating products manufacturing does not include:

1. The manufacture of products that do not leave a dried film of solid material on the substrate, such as thinners, paint removers, brush cleaners, and mold release agents;

2. The manufacture of electroplated and electroless metal films;

3. The manufacture of raw materials, such as resins, pigments, and solvents used in the production of paints and coatings; and

4. Activities by end users of paints or allied products to ready those materials for application.

(H) **Potential to emit**—The emission rates of any pollutant at maximum design capacity. Annual potential shall be based on the maximum annual-rated capacity of the facility assuming continuous year-round operation. Federally enforceable permit conditions on the type of materials combusted or processed, operating rates, hours of operation, and the application of air pollution control equipment shall be used in determining the annual potential. Secondary emissions do not count in determining annual potential.

(I) **Volatile organic compound (VOC)**—See definition in 10 CSR 10-6.020.

(J) **Definitions of certain terms in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.**

(3) **General Provisions.** *[No owner or operator of a manufacturing installation subject to this rule and producing the products listed in section (1) shall cause or allow the manufacture of these products unless the operating equipment meets the requirements contained in this rule and without adhering to operating procedures specified in this rule and operating procedures recommended by the equipment manufacturer and approved by the director.]*

*[(4)](A)* Operating Equipment and Operating Procedure Requirements.

*[(A)]1.* Tanks storing VOCs with a vapor pressure greater than or equal to *[10] ten kilopascals (10 kPa) or one and one-half pounds per square inch (1.5 psi)* at twenty degrees Celsius (20 °C), shall be equipped with pressure/vacuum conservation vents set at **plus or minus two-tenths kilopascals (± 0.2 kPa) or twenty-nine-thousandths pounds per square inch (± 0.029 psi)**, except where more effective air pollution control is used and has been approved by the director. Stationary VOC storage containers with a capacity greater than two hundred fifty (250) gallons shall be equipped with a submerged-fill pipe or bottom fill, except where more effective air pollution control is used and has been approved by the director.

*[(B)]2.* Covers shall be installed on all open-top tanks used for the production of *[nonwaterbase] non-water-based* coating products. *[These covers shall] and remain closed except when*

production, sampling, maintenance, or inspection procedures require operator access.

*[(C)]*3. Covers shall be installed on all tanks containing VOCs used for cleaning equipment. *These covers shall* and remain closed except when operator access is required.

*[(D)]*4. All vapors from varnish cooking operations shall be collected and passed through a control device which removes at least eighty-five percent (85%) *[on a daily basis]* of the VOCs from these vapors before they are discharged to the atmosphere.

*[(E)]*5. All grinding mills shall be operated and maintained in accordance with manufacturers' specifications. The manufacturers' specifications shall be kept on file and made available to the director upon *[his/her]* request.

*[(F)]*6. The polymerization of synthetic varnish or resin shall be done in a completely enclosed operation with the VOC emissions controlled by the use of surface condensers or equivalent controls.

*[1.]*A. If surface condensers are used, they must be maintained to ensure a ninety-five percent (95%) overall removal efficiency for total VOC emissions when condensing total VOC of a vapor pressure greater than **twenty-six millimeters of Mercury (26 mmHg)** (as measured at *[20]* **twenty degrees Celsius (20 °C)**).

*[2.]*B. If equivalent controls are used, the VOC emissions must be reduced by an amount equivalent to the reduction which would be achieved under subparagraph *[(4)]*(F)1) (3)(A)6.A. of this rule. Any owner or operator desiring to use equivalent controls to comply with this subsection shall submit proof of equivalency as part of the control plan required under *[subsection (5)(A)]* paragraph (3)(B)1. of this rule. Equivalent controls may not be used *[unless/ until proof of equivalency has been submitted to the department and approved by the director.*

*[(5)]*(B) Compliance Dates.

*[(A)]*1. The owner or operator of a paint, varnish, lacquer, enamel, or other allied surface coating production manufacturing installation subject to this rule shall submit a final control plan to the director for his/her approval no later than six (6) months after the effective date of this rule (September 11, 1984). This plan shall include a time schedule for compliance containing an engineering design, increments of progress, and a final compliance date.

*[(B)]*2. Compliance with this rule shall be accomplished by any installation as expeditiously as practicable but in no case later than August 12, 1985.

*[(6)]*(C) Compliance *[Methods and Recordkeeping]* Determination.

*[(A)]*1. The control efficiency/ies specified in *[subsections (4)(D) and (F)]* paragraphs (3)(A)4. and (3)(A)6. of this rule shall be determined by *[the testing methods referenced at 10 CSR 10-6.030(14)(A)]* a test method in section (5) of this rule.

*[(B)]*2. Owners or operators utilizing add-on control *[technology]* devices shall monitor the following parameters continuously while the affected equipment is in operation:

*[1.]*A. Exit stream temperature on all condensers; and

*[2.]*B. Any other parameter which the director determines is necessary to quantify emissions or otherwise determine compliance with this rule.

*[(C)]* Records shall be kept on production rates sufficient to determine daily VOC emissions.

*(D)* The owner or operator shall record all information derived from monitoring required under subsections (6)(B) and (C) and shall keep records for a period of not less than two (2) years. All these records shall be made available to the director upon request.]

#### (4) Reporting and Record Keeping.

(A) Records shall be kept on production rates sufficient to determine daily VOC emissions and any test results performed in accordance with this rule.

(B) Owners or operators shall record all information derived from monitoring required under paragraph (3)(C)2. of this rule.

(C) The records described under subsections (4)(A) and (4)(B) of this rule shall be kept for a period of two (2) years and made available to the director upon request.

(5) Test Methods. The following test methods may be used to demonstrate compliance with this rule as appropriate, based on gas stream composition:

(A) Method 18—Measurement of Gaseous Organic Compound Emissions By Gas Chromatography of 40 CFR 60, Appendix A-6, as specified in 10 CSR 10-6.030(22);

(B) Method 25—Determination of Total Gaseous Nonmethane Organic Emissions as Carbon of 40 CFR 60, Appendix A-7, as specified in 10 CSR 10-6.030(22);

(C) Method 25A—Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer as Carbon of 40 CFR 60, Appendix A-7, as specified in 10 CSR 10-6.030(22); or

(D) Test Method 320—Measurement of Vapor Phase Organic and Inorganic Emissions by Extractive Fourier Transform Infrared (FTIR) Spectroscopy of 40 CFR 63, Appendix A, promulgated as of July 1, 2019 and hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington DC 20401. This rule does not incorporate any subsequent amendments or additions.

*AUTHORITY:* section 643.050, RSMo [Supp 1999] 2016. Original rule filed Oct. 13, 1983, effective March 11, 1984. Amended: Filed Oct. 4, 1988, effective March 11, 1989. Amended: Filed Jan. 3, 2000, effective Aug. 30, 2000. Amended: Filed Nov. 25, 2019.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* A public hearing on this proposed amendment will begin at 9:00 a.m., March 26, 2020. The public hearing will be held at the Harry S Truman State Office Building, 301 W High Street, Room 400, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., April 2, 2020. Send online comments via the proposed rules web page [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules), email comments to [apcprulespn@dnr.mo.gov](mailto:apcprulespn@dnr.mo.gov), or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

#### PROPOSED AMENDMENT

10 CSR 10-6.061 Construction Permit Exemptions. The commission proposes to amend the purpose; sections (1), (2), (3), and (5); and delete subsection (3)(C). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting

the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules).

*PURPOSE: The purpose of this amendment is to continue to move the definitions from the stand alone definitions rule to their applicable rule, update incorporations by reference, make other language clarifications and typographical corrections, and remove the unnecessary use of restrictive words. The evidence supporting the need for this proposed amendment, per 536.016, RSMo, is Executive Order 17-03 and related comments.*

*PURPOSE: This rule lists specific construction or modification projects that are [not required] exempt from the requirement to obtain permits to construct under 10 CSR 10-6.060. [The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the February 20, 2002 Recommendations from the "Managing For Results" presentation, the Air Program Advisory Forum 2001 and 2002 Recommendations and a January 28, 2003 memorandum to the department's Air Pollution Control Program recommending exemption language changes.]*

*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) Applicability. This rule *[shall apply to all installations in]* **applies throughout the state of Missouri. Notwithstanding [T]he provisions of [section (3) of] this rule [notwithstanding], 10 CSR 10-6.060 [shall apply] applies** to any construction, reconstruction, alteration, or modification which—

(A) Is expressly required by an operating permit; or

(B) Is subject to federally-mandated construction permitting requirements set forth in sections (7), (8), *[or]* (9), or any combination of these, of 10 CSR 10-6.060.

(2) Definitions. *[Definitions for certain terms specified in this rule may be found in 10 CSR 10-6.020.]*

(A) Actual emissions—The actual rate of emissions of a pollutant from a source operation is determined as follows:

1. Actual emissions as of a particular date shall equal the average rate, in tons per year, at which the source operation or installation actually emitted the pollutant during the previous two (2)-year period and which represents normal operation. A different time period for averaging may be used if the director determines it to be more representative. Actual emissions shall be calculated using actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period;

2. The director may presume that source-specific allowable emissions for a source operation or installation are equivalent to the actual emissions of the source operation or installation; and

3. For source operations or installations, which have not begun normal operations on the particular date, actual emissions shall equal the potential emissions of the source operation or installation on that date.

(B) Air pollutant—Agent, or combination of agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and by-product material) sub-

stance, or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the administrator of the U.S. Environmental Protection Agency, or the administrator's duly authorized representative has identified such precursor(s) for the particular purpose for which the term air pollutant is used.

(C) Animal feeding operations—The terms in subparagraph (3)(A)2.D. of this rule pertaining to animal feeding operations are defined in 40 CFR 122.23(b) promulgated as of July 1, 2017, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington DC 20401. This rule does not incorporate any subsequent amendments or additions.

(D) Emissions unit—Any part or activity of a facility that emits or has the potential to emit any regulated air pollutant.

(E) Facility—All contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.

(F) Liquefied petroleum gas—A gas consisting of propane, propylene, butane, and butylenes.

(G) Natural gas—A naturally occurring fluid mixture of hydrocarbons (e.g., methane, ethane, or propane) produced in geological formations beneath the Earth's surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions.

(H) Definitions of certain terms in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions. The following construction or modifications are *[not required] exempt from the requirement* to obtain a permit under 10 CSR 10-6.060:

(A) *[Exempt Emission Units] Sources of Emissions.*

1. The following combustion equipment *[is exempt from 10 CSR 10-6.060 if the equipment]* that emits only combustion products $[,]$  and *[the equipment]* produces less than one hundred fifty (150) pounds per day of any air contaminant:

A. *[Any c]* Combustion equipment using exclusively natural gas *[or]*, liquefied petroleum gas, or any combination of these with a **heat input** capacity of less than ten (10) million British thermal units (Btus) per hour *[heat input]*;

B. *[Any c]* Combustion equipment with a **heat input** capacity of less than one (1) million Btus per hour *[heat input]*;

C. Drying or heat treating ovens with less than ten (10) million Btus per hour **heat input** capacity provided the oven does not emit pollutants other than the combustion products and the oven is fired exclusively by natural gas, liquefied petroleum gas, or any combination thereof; and

D. *[Any o]* Oven with a total production of yeast/ *[ ]*-leavened bakery products of less than ten thousand (10,000) pounds per operating day heated either electrically or exclusively by natural gas firing with a maximum **heat input** capacity of less than ten (10) million Btus per hour.

2. The following establishments, systems, equipment, and operations *[are exempt from 10 CSR 10-6.060]*:

A. Office and commercial buildings, where emissions result solely from space heating by natural or liquefied petroleum gas with a **heat input capacity** of less than twenty (20) million Btus per hour *[heat input]*. Incinerators operated in conjunction with these sources are not exempt unless the incinerator operations are exempt under another section of this rule;

B. Comfort air conditioning or comfort ventilating systems not designed or used to *[remove air contaminants generated by, or released from, specific units of equipment]* control air pollutant emissions;

C. Equipment used for any mode of transportation;

D. Livestock markets and livestock operations, including animal feeding operations and concentrated animal feeding operations

[as those terms are defined by 40 CFR 122.23], and all manure storage and application systems associated with livestock markets or livestock operations, that were constructed on or before November 30, 2003. This exemption includes any change, installation, construction, or reconstruction of a process, process equipment, emission unit, or air cleaning device after November 30, 2003, unless such change, installation, construction, or reconstruction involves an increase in the operation's capacity to house or grow animals[.];

E. [Any g]Grain handling, storage, and drying facility which—

(I) Is in noncommercial use only (used only to handle, dry, or store grain produced by the owner) if—

(a) The total storage capacity does not exceed seven hundred fifty thousand (750,000) bushels;

(b) The grain handling capacity does not exceed four thousand (4,000) bushels per hour; and

(c) The facility is located at least five hundred feet (500') from any recreational area, residence, or business not occupied or used solely by the owner;

(II) Is in commercial or noncommercial use and—

(a) The total storage capacity of the new and any existing facility(ies) does not exceed one hundred ninety thousand (190,000) bushels;

(b) Has an installation of additional grain storage capacity in which there is no increase in hourly grain handling capacity and that utilizes existing grain receiving and loadout equipment; or

(c) Is a temporary installation used for temporary storage as a result of exceptional events (e.g., natural disasters or abundant harvests exceeding available storage capacity) that meets the following criteria:

I. Outside storage structures shall have a crushed lime or concrete floor with retaining walls of either constructed metal or concrete block. These structures may be either oval or round and must be covered with tarps while storing grain. These structures may be filled by portable conveyor or by spouts added from existing equipment;

II. Existing buildings may be filled by portable conveyors directly or by overhead fill conveyors that are already in the buildings;

III. The potential to emit from the storage structures is less than one hundred (100) tons of each pollutant;

IV. The attainment or maintenance of ambient air quality standards is not threatened; and

V. There is no significant impact on any Class I area[.];

F. Restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption;

G. [Any w]Wet sand and gravel production facility that [obtains its material from subterranean and subaqueous beds where the deposits of sand and gravel are consolidated granular materials resulting from natural disintegration of rock and stone and whose maximum production rate is less than five hundred (500) tons per hour. All permanent in-plant roads shall be paved and cleaned, or watered, or properly treated with dust-suppressant chemicals as necessary to achieve good engineering control of dust emissions. Only natural gas shall be used as a fuel when drying;] meets the following criteria:

(I) Processed materials are obtained from subterranean and subaqueous beds where the deposits of sand and gravel are consolidated granular materials resulting from natural disintegration of rock and stone;

(II) Maximum production rate is less than five hundred (500) tons per hour;

(III) All permanent roads within the facility are paved and cleaned, or watered, or properly treated with dust-suppressant chemicals as necessary to achieve good engineering control

of dust emissions; and

(IV) Only natural gas is used as a fuel when drying;

H. Equipment solely installed for the purpose of controlling fugitive dust;

I. Equipment or control equipment which eliminates all emissions to the ambient air;

J. Equipment, including air pollution control equipment, but not including an anaerobic lagoon, that emits odors but no regulated air pollutants;

K. Residential wood heaters, cookstoves, or fireplaces;

L. Laboratory equipment used exclusively for chemical and physical analysis or experimentation, except equipment used for controlling radioactive air contaminants;

M. Recreational fireplaces;

N. Stacks or vents to prevent the escape of sewer gases through plumbing traps for systems handling domestic sewage only. Systems which include any industrial waste do not qualify for this exemption;

O. Noncommercial incineration of dead animals, the on-site incineration of resident animals for which no consideration is received or commercial profit is realized as authorized in section 269.020.6, RSMo [2000];

P. The following miscellaneous activities:

(I) Use of office equipment and products, not including printing establishments or businesses primarily involved in photographic reproduction. This exemption is solely for office equipment that is not part of the manufacturing or production process at the installation;

(II) Tobacco smoking rooms and areas;

(III) Hand-held applicator equipment for hot melt adhesives with no volatile organic compound (VOC) in the adhesive formula;

(IV) Paper trimmers and binders;

(V) Blacksmith forges, drop hammers, and hydraulic presses;

(VI) Hydraulic and hydrostatic testing equipment; and

(VII) Environmental chambers, shock chambers, humidity chambers, and solar simulators provided no hazardous air pollutants are emitted by the process;

Q. The following internal combustion engines:

(I) Portable electrical generators that can be moved by hand without the assistance of any motorized or non-motorized vehicle, conveyance, or device;

(II) Spark ignition or diesel fired internal combustion engines used in conjunction with pumps, compressors, pile drivers, welding, cranes, and wood chippers or internal combustion engines or gas turbines of less than two hundred fifty (250) horsepower rating; and

(III) Laboratory engines used in research, testing, or teaching;

R. The following quarries, mineral processing, and biomass facilities:

(I) Drilling or blasting activities;

(II) Concrete or aggregate product mixers or pug mills with a maximum rated capacity of less than fifteen (15) cubic yards per hour;

(III) Riprap production processes consisting only of a grizzly feeder, conveyors, and storage, not including additional hauling activities associated with riprap production;

(IV) Sources at biomass recycling, composting, landfill, publicly owned treatment works (POTW), or related facilities specializing in the operation of, but not limited to, tub grinders powered by a motor with a maximum output rating of ten (10) horsepower[.]; hoggers, [and] shredders, and similar equipment powered by a motor with a maximum output rating of twenty-five (25) horsepower[.]; and other sources at such facilities with a total throughput less than five hundred (500) tons per year; and

(V) Land farming of soils contaminated only with petroleum fuel products where the farming beds are located a minimum of three hundred feet (300') from the property boundary;

S. The following kilns and ovens:

(I) Kilns with a firing capacity of less than ten (10) million Btus per hour used for firing ceramic ware, heated exclusively by natural gas, liquefied petroleum gas, electricity, or any combination thereof; and

(II) Electric ovens or kilns used exclusively for curing or heat-treating provided no hazardous air pollutants (HAPs) or VOCs are emitted;

T. The following food and agricultural equipment:

(I) *[Any e/*Equipment used in agricultural operations to grow crops;

(II) Equipment used exclusively to slaughter animals. This exemption does not apply to other slaughterhouse equipment such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;

(III) Commercial smokehouses or barbecue units in which the maximum horizontal inside cross-sectional area does not exceed twenty (20) square feet;

(IV) Equipment used exclusively to grind, blend, package, or store tea, cocoa, spices, or coffee;

(V) Equipment with the potential to dry, mill, blend, grind, or package less than one thousand (1,000) pounds per year of dry food products such as seeds, grains, corn, meal, flour, sugar, and starch;

(VI) Equipment with the potential to convey, transfer, clean, or separate less than one thousand (1,000) tons per year of dry food products or waste from food production operations;

(VII) Storage equipment or facilities containing dry food products that are not vented to the outside atmosphere or which have the potential to handle less than one thousand (1,000) tons per year;

(VIII) Coffee, cocoa, and nut roasters with a roasting capacity of less than fifteen (15) pounds of beans or nuts per hour, and *[any]* stoners or coolers operated with these roasters;

(IX) Containers, reservoirs, tanks, or loading equipment used exclusively for the storage or loading of beer, wine, or other alcoholic beverages produced for human consumption;

(X) Brewing operations at facilities with the potential to produce less than three (3) million gallons of beer per year; and

(XI) Fruit sulfuring operations at facilities with the potential to produce less than ten (10) tons per year of sulfured fruits and vegetables;

U. Batch solvent recycling equipment provided the recovered solvent is used primarily on-site, the maximum heat input is less than one (1) million Btus per hour, the batch capacity is less than one hundred fifty (150) gallons, and there are no solvent vapor leaks from the equipment which exceed five hundred (500) parts per million;

V. The following surface coating and printing operations:

(I) Batch mixing of inks, coatings, or paints provided *[good housekeeping is practiced, spills are cleaned up as soon as possible, equipment is maintained according to manufacturer's instruction and property is kept clean. In addition, all waste inks, coating, and paints shall be disposed of properly. Prior to disposal, all liquid waste shall be stored in covered containers. This exemption does not apply to ink, coatings, or paint manufacturing facilities;]*—

(a) **The operations do not occur at an ink, coatings, or paint manufacturing facility;**

(b) **Good housekeeping is practiced, spills are cleaned up as soon as possible, equipment is maintained according to manufacturer's instruction, and property is kept clean;**

(c) **All waste inks, coating, and paints are disposed of properly; and**

(d) **Prior to disposal, all liquid waste is stored in covered containers;**

(II) Any powder coating operation, or radiation cured coat-

ing operation where ultraviolet or electron beam energy is used to initiate a reaction to form a polymer network;

(III) Any surface-coating source that employs solely non-refillable hand-held aerosol cans; and

(IV) Surface coating operations utilizing powder coating materials with the powder applied by an electrostatic powder spray gun or an electrostatic fluidized bed;

W. The following metal working and handling equipment:

(I) Carbon dioxide (CO<sub>2</sub>) lasers, used only on metals and other materials that do not emit a HAP or VOC in the process;

(II) Laser trimmers equipped with dust collection attachments;

(III) Equipment used for pressing or storing sawdust, wood chips, or wood shavings;

(IV) Equipment used exclusively to mill or grind coatings and molding compounds in a paste form provided the solution contains less than one percent (1%) VOC by weight;

(V) Tumblers used for cleaning or deburring metal products without abrasive blasting;

(VI) Batch mixers with a rated capacity of fifty-five (55) gallons or less provided the process will not emit hazardous air pollutants;

(VII) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives provided the process will not emit hazardous air pollutants;

(VIII) Equipment used exclusively for the packaging of lubricants or greases;

(IX) Platen presses used for laminating provided the process will not emit hazardous air pollutants;

(X) Roll mills or calendars for rubber or plastics provided the process will not emit hazardous air pollutants;

(XI) Equipment used exclusively for the melting and applying of wax containing less than one percent (1%) VOC by weight;

(XII) Equipment used exclusively for the conveying and storing of plastic pellets; and

(XIII) Solid waste transfer stations that receive or load out less than fifty (50) tons per day of nonhazardous solid waste;

X. The following liquid storage and loading equipment:

(I) Storage tanks and vessels having a capacity of less than five hundred (500) gallons; and

(II) Tanks, vessels, and pumping equipment used exclusively for the storage and dispensing of any aqueous solution which contains less than one percent (1%) by weight of organic compounds. Tanks and vessels storing the following materials are not exempt:

(a) Sulfuric or phosphoric acid with an acid strength of more than ninety-nine percent (99.0%) by weight;

(b) Nitric acid with an acid strength of more than seventy percent (70.0%) by weight;

(c) Hydrochloric or hydrofluoric acid with an acid strength of more than thirty percent (30.0%) by weight; or

(d) More than one (1) liquid phase, where the top phase contains more than one percent (1%) VOC by weight;

Y. The following chemical processing equipment or operations:

(I) Storage tanks, reservoirs, pumping, and handling equipment, and mixing and packaging equipment containing or processing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized; and

(II) Batch loading and unloading of solid phase catalysts;

Z. Body repair and refinishing of motorcycles, passenger cars, vans, light trucks, *[and]* heavy trucks, and other vehicle body parts, bodies, and cabs, provided—

(I) Good housekeeping is practiced; spills are cleaned up as soon as possible, equipment is maintained according to manufacturers' instructions, and property is kept clean. *[In addition, a]*All waste coatings, solvents, and spent automotive fluids including, but not limited to, fuels, engine oil, gear oil, transmission fluid, brake fluid, antifreeze, fresh or waste fuels, and spray booth filters or water

wash sludge are disposed of properly. Prior to disposal, all liquid waste shall be stored in covered containers. **In addition,** [A/all solvents and cleaning materials shall be stored in closed containers;

(II) All spray coating operations shall be performed in a totally enclosed filtered spray booth or totally enclosed filtered spray area with an air intake area of less than one hundred (100) square feet. All spray areas shall be equipped with a **running fan** [which shall be operated] during spraying, and the exhaust air shall either be vented through a stack to the atmosphere or [the air shall be] recirculated back into the shop through a carbon adsorption system. All carbon adsorption systems shall be properly maintained according to the manufacturer's operating instructions, and the carbon shall be replaced at the manufacturer's recommended intervals to minimize solvent emissions; and

(III) Spray booth, spray area, and preparation area stacks shall be located at least eighty feet (80') away from any residence, recreation area, church, school, child care facility, or medical or dental facility;

AA. Sawmills processing no more than twenty-five (25) million board feet, green lumber tally of wood per year, in which no mechanical drying of lumber is performed, in which fine particle emissions are controlled through the use of properly engineered baghouses or cyclones, and which meet all of the following provisions:

(I) The mill shall be located at least five hundred feet (500') from any recreational area, school, residence, or other structure not occupied or used solely by the owner of the facility or the owner of the property upon which the installation is located;

(II) All sawmill residues (sawdust, shavings, chips, bark) from debarking, planning, saw areas, etc., shall be removed or contained to minimize fugitive particulate emissions. Spillage of wood residues shall be cleaned up as soon as possible and contained such that dust emissions from wind erosion and/or vehicle traffic are minimized. Disposal of collected sawmill residues must be accomplished in a manner that minimizes residues becoming airborne. Disposal by means of burning is prohibited unless it is conducted in a permitted incinerator; and

(III) All open-bodied vehicles transporting sawmill residues (sawdust, shavings, chips, bark) shall be covered with a tarp to achieve maximum control of particulate emissions;

BB. Internal combustion engines and gas turbine driven compressors, electric generator sets, and water pumps, used only for portable or emergency services, provided that the maximum annual operating hours shall not exceed five hundred (500) hours. Emergency generators are exempt only if their sole function is to provide back-up power when electric power from the local utility is interrupted. This exemption only applies if the emergency generators are **equipped with a non-resettable meter, and** operated only during emergency situations and for short periods of time to perform maintenance and operational readiness testing [The emergency generator shall be equipped with a non-resettable meter];

CC. Commercial dry cleaners; and

DD. Carving, cutting, routing, turning, drilling, machining, sawing, sanding, planning, buffing, or polishing solid materials, other than materials containing any asbestos, beryllium, or lead greater than one percent (1%) by weight as determined by Material Safety Data Sheets (MSDS), vendor material specifications and/or purchase order specifications, where equipment—

(I) Directs a stream of liquid at the point where material is processed;

(II) Is used only for maintenance or support activity not conducted as part of the installation's primary business activity;

(III) Is exhausted inside a building; or

(IV) Is ventilated externally to an operating cyclonic inertial separator (cyclone), baghouse, or dry media filter. Other particulate control devices such as electrostatic precipitators or scrubbers are subject to construction permitting or a permit-by-rule, unless otherwise exempted.

3. Construction or modifications [are exempt from 10 CSR

10-6.060 if they] that meet the requirements of subparagraph (3)(A)3.B. of this rule for each hazardous air pollutant and the requirements of subparagraph (3)(A)3.A., (3)(A)3.C., or (3)(A)3.D. of this rule for each criteria pollutant. The director may require review of construction or modifications otherwise exempt under paragraph (3)(A)3. of this rule if the emissions of the proposed construction or modification will appreciably affect air quality or the air quality standards are appreciably exceeded or complaints involving air pollution have been filed in the vicinity of the proposed construction or modification.

A. At maximum design capacity the proposed construction or modification shall emit each pollutant at a rate of no more than the amount specified in Table 1.

**TABLE 1. Insignificant Emission Exemption Levels**

<b>Pollutant</b>	<b>Insignificance Level (lbs per hr)</b>
Particulate Matter 10 Micron (PM <sub>10</sub> ) (Emitted solely by equipment)	1.0
Sulfur Oxides (SO <sub>x</sub> )	2.75
Nitrogen Oxides (NO <sub>x</sub> )	2.75
Volatile Organic Compounds (VOCs)	2.75
Carbon Monoxide (CO)	6.88

B. At maximum design capacity, the proposed construction or modification will emit a hazardous air pollutant at a rate of no more than one-half (0.5) pound per hour, or the hazardous emission threshold as established in subsection (12)(J) of 10 CSR 10-6.060, whichever is less.

C. Actual emissions of each criteria pollutant, except lead, will be no more than eight hundred seventy-six (876) pounds per year.

D. Actual emissions of volatile organic compounds that do not contain hazardous air pollutants will be no more than four (4) tons per year.

(B) [Excluded] Activities. [10 CSR 10-6.060 does not apply to] **Any activity that is—**

1. Routine maintenance, parts replacement, or relocation of emission units within the same installation which do not involve either any appreciable change either in the quality or nature, or any increase in either the potential to emit or the effect on air quality, of the emissions of any air contaminant. Some examples are as follows:

A. Replacing the bags in a baghouse;

B. Replacing wires, plates, rappers, controls, or electric circuitry in an electrostatic precipitator which does not measurably decrease the design efficiency of the unit;

C. [Replacement of] **Replacing** fans, pumps, or motors which [does] do not alter the operation of a source or performance of a control device;

D. [Replacement of] **Replacing** boiler tubes;

E. [Replacement of] **Replacing** piping, hoods, and ductwork; and

F. [Replacement of] **Replacing** engines, compressors, or turbines as part of a normal maintenance program;

2. Changes in a process or process equipment which do not involve installing, constructing, or reconstructing an emissions unit or associated air cleaning devices, and that do not involve either any appreciable change either in the quality or nature, or any increase in either the potential to emit or the effect on air quality of the emissions of any air contaminant. Some examples are as follows:

A. [Change in] **Changing** supplier or formulation of similar

raw materials, fuels, paints, and other coatings;

B. *[Change in] Changing* the sequence of the process;

C. *[Change in] Changing* the method of raw material addition;

D. *[Change in] Changing* the method of product packaging;

E. *[Change in] Changing* the process operating parameters;

F. *[Replacement of] Replacing* an identical or more efficient cyclone precleaner which is used as a precleaner in a fabric filter control system;

G. *[Installation of] Installing* a floating roof on an open top petroleum storage tank;

H. *[Replacement of] Replacing* a fuel burner in a boiler with a more thermally efficient burner;

I. Lengthening a paint drying oven to provide additional curing time; and

J. Changes in the location, within the storage area, or configuration of a material storage pile or material handling equipment;

3. Replacement of like-kind emission units that do not involve either any appreciable change either in the quality or nature, or any increase either in the potential to emit or the effect on air quality, of the emissions of any air contaminant;

4. The exempt activities in paragraphs (3)(B)1.-3. of this rule reflect a presumption that existing emission units which are changed or replaced by like-kind units shall be treated as having begun normal operation for purposes of *[the definition of] determining* actual emissions *[in 10 CSR 10-6.020]*;

5. The following miscellaneous activities:

A. Plant maintenance, and upkeep activities such as routine cleaning, janitorial services, use of janitorial products, grounds keeping, general repairs, architectural or maintenance painting, welding repairs, plumbing, roof repair, installing insulation, using air compressors and pneumatically operated equipment, and paving parking lots, provided these activities are not conducted as part of the installation's primary business activity;

B. Batteries and battery charging stations;

C. Fire suppression equipment and emergency road flares;

D. Laundry activities, except dry-cleaning and steam boilers;

and

E. Steam emissions from leaks, safety relief valves, steam cleaning operations, and steam sterilizers; and

6. The following miscellaneous surface preparation and cleaning activities:

A. Equipment and containers used for surface preparation, cleaning, or stripping by use of solvents or solutions that meet all of the following:

(I) Solvent used must have an initial boiling point of greater than three hundred two degrees Fahrenheit (302°F), and this initial boiling point must exceed the maximum operating temperature by at least one hundred eighty degrees Fahrenheit (180°F);

(II) The equipment or container has a capacity of less than thirty-five (35) gallons of liquid. For remote reservoir cold cleaners, capacity is the volume of the remote reservoir;

(III) The equipment or container has a liquid surface area less than seven (7) square feet, or for remote reservoir cold cleaners, the sink or working area has a horizontal surface less than seven (7) square feet;

(IV) Solvent flow must be limited to a continuous fluid stream type arrangement. Fine, atomized, or shower type sprays are not exempt; and

(V) All lids and closures are properly employed;

B. The exclusion in subparagraph (3)(B)6.A. of this rule does not apply to solvent wipe cleaning operations;

C. Abrasive blasting sources that have a confined volume of less than one hundred (100) cubic feet and are controlled by a particulate filter;

D. Blast cleaning equipment using a suspension of abrasive in water;

E. Portable blast cleaning equipment for use at any single location for less than sixty (60) days; and

F. Any solvent cleaning or surface preparation source that employs only non-refillable handheld aerosol cans.

*[(C) Exceptions to Excluded Activities. The exclusion provisions of subsection (3)(B) of this rule notwithstanding, 10 CSR 10-6.060 shall apply to any construction, reconstruction, alteration or modification which—*

*1. Is expressly required by an operating permit; or*

*2. Is subject to federally-mandated construction permitting requirements set forth in sections (7), (8), or (9), or any combination of these, of 10 CSR 10-6.060.]*

(5) Test Methods. *[(Not Applicable)](Not Applicable)*

*AUTHORITY: section 643.050, RSMo [2000] 2016. Original rule filed March 5, 2003, effective Oct. 30, 2003. Amended: Filed July 1, 2004, effective Feb. 28, 2005. Amended: Filed Dec. 1, 2005, effective July 30, 2006. Amended: Filed Oct. 1, 2008, effective May 30, 2009. Amended: Filed Nov. 25, 2019.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., March 26, 2020. The public hearing will be held at the Harry S Truman State Office Building, 301 W High Street, Room 400, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., April 2, 2020. Send online comments via the proposed rules web page [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules), email comments to [apcprulesprn@dnr.mo.gov](mailto:apcprulesprn@dnr.mo.gov), or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.*

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

**PROPOSED AMENDMENT**

**10 CSR 10-6.070 New Source Performance Regulations.** The commission proposes to amend subsection (3)(A). If the commission adopts this rule action, the department intends to advise the U.S. Environmental Protection Agency that we will accept delegation of enforcement authority for these federal regulations. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules).

*PURPOSE: This rule incorporates by reference the new source performance standards in 40 CFR 60. This provides the Missouri Department of Natural Resources the authority to implement and enforce these U.S. Environmental Protection Agency regulations. This amendment incorporates by reference new emission standards, updates, and clarifications to federal rule 40 CFR 60 that were promulgated from July 2, 2018 through July 1, 2019. The evidence supporting the need for this proposed amendment, per 536.016, RSMo, is the Title V Operating Permit Program requirements, 40 CFR 70,*



and State/EPA Workplan.

(3) General Provisions.

(A) Incorporations by Reference.

1. The provisions of 40 CFR 60, promulgated as of July 1, [2018] 2019, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

A. Those provisions which are not delegable by the U.S. Environmental Protection Agency (EPA);

B. Sections 60.4, 60.9, and 60.10 of subpart A;

C. Subpart B;

D. Subpart AAA;

E. Subpart QQQQ; and

F. Incinerators subject to Hazardous Waste Management Commission rule 40 CFR 264, subpart O, as incorporated in 10 CSR 25-7.264, are not subject to this rule. The sources exempted in 40 CFR 264.340(b), as incorporated in 10 CSR 25-7.264, are subject to this rule. All other applicable requirements of Division 25 remain in effect.

*AUTHORITY: section 643.050, RSMo 2016. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 25, 2019.*

*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. The private entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., March 26, 2020. The public hearing will be held at the Harry S Truman State Office Building, 301 W High Street, Room 400, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., April 2, 2020. Send online comments via the proposed rules web page [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules), email comments to [apcprulespn@dnr.mo.gov](mailto:apcprulespn@dnr.mo.gov), or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.*

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

**PROPOSED AMENDMENT**

**10 CSR 10-6.075 Maximum Achievable Control Technology Regulations.** The commission proposes to amend subsection (3)(A). If the commission adopts this rule action, the department intends to advise the U.S. Environmental Protection Agency that we will accept delegation of enforcement authority for these federal regulations. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the

Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules).

*PURPOSE: This rule incorporates by reference the maximum achievable control technology regulations in 40 CFR 63, providing the Missouri Department of Natural Resources the authority to implement and enforce these U.S. Environmental Protection Agency regulations. Since EPA enforces some subparts of 40 CFR 63 within Missouri, this rule also specifies whether EPA or the department is the enforcing authority for each subpart. This amendment incorporates by reference new emission standards, updates, and clarifications to federal rule 40 CFR 63 that were promulgated from July 2, 2018 through July 1, 2019. The evidence supporting the need for this proposed amendment, per 536.016, RSMo, is the Title V Operating Permit Program requirements, 40 CFR 70, and State/EPA Workplan.*

(3) General Provisions.

(A) Incorporations by Reference.

1. The provisions of 40 CFR 63, promulgated as of July 1, [2018] 2019, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

A. Those provisions which are not delegable by the United States Environmental Protection Agency (EPA); and

B. Sections 63.13 and 63.15(a)(2) of subpart A.

*AUTHORITY: section 643.050, RSMo 2016. Original rule filed May 1, 1996, effective Dec. 30, 1996. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 25, 2019.*

*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. The private entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., March 26, 2020. The public hearing will be held at the Harry S Truman State Office Building, 301 W High Street, Room 400, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., April 2, 2020. Send online comments via the proposed rules web page [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules), email comments to [apcprulespn@dnr.mo.gov](mailto:apcprulespn@dnr.mo.gov), or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.*

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

**PROPOSED AMENDMENT**

**10 CSR 10-6.080 Emission Standards for Hazardous Air Pollutants.** The commission proposes to amend subsection (3)(A). If

the commission adopts this rule action, the department intends to advise the U.S. Environmental Protection Agency that we will accept delegation of enforcement authority for these federal regulations. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules).

*PURPOSE: This rule incorporates by reference the maximum achievable control technology regulations in 40 CFR 61. This provides the Missouri Department of Natural Resources the authority to implement and enforce these U.S. Environmental Protection Agency regulations. This amendment incorporates by reference new emission standards, updates, and clarifications to federal rule 40 CFR 61 that were promulgated from July 2, 2018 through July 1, 2019. The evidence supporting the need for this proposed amendment, per 536.016, RSMo, is the Title V Operating Permit Program requirements, 40 CFR 70, and State/EPA Workplan.*

(3) General Provisions.

(A) Incorporations by Reference.

1. The provisions of 40 CFR 61 promulgated as of July 1, [2018] 2019, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

- A. Those provisions which are not delegable by the U.S. Environmental Protection Agency (EPA);
- B. Sections 61.04, 61.16, and 61.17 of subpart A;
- C. Subpart B;
- D. Subpart H;
- E. Subpart I;
- F. Subpart K;
- G. Subpart Q;
- H. Subpart R;
- I. Subpart T; and
- J. Subpart W.

*AUTHORITY: section 643.050, RSMo 2016. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 25, 2019.*

*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. The private entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing on this proposed amendment will begin at 9:00 a.m., March 26, 2020. The public hearing will be held at the Harry S Truman State Office Building, 301 W High Street, Room 400, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., April 2, 2020. Send online comments via the proposed rules web page [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules), email comments to [apcprulespn@dnr.mo.gov](mailto:apcprulespn@dnr.mo.gov), or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air

*Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
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**PROPOSED AMENDMENT**

**10 CSR 10-6.270 Acid Rain Source Permits Required.** The commission proposes to amend sections (1)–(3) and add sections (4) and (5). If the commission adopts this rule action, the department does not intend to submit this rule amendment to the U.S. Environmental Protection Agency because it is not a federally approved regulation and the rule has never been approved as part of the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules).

*PURPOSE: This rule establishes certain general provisions and operating permit program requirements for affected sources and affected sources under the federal Acid Rain Program. This amendment will reorganize the rule into the standard rule organization format and update the incorporation by reference information. The evidence supporting the need for this proposed amendment, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.*

(1) [Definitions—Terms and phrases used in this rule may be found in 10 CSR 10-6.020 Definitions and Common Reference Tables.] **Applicability.** This rule applies to the sources and affected units subject to the federal Acid Rain Program described under 40 CFR 72.6 as specified in section (3) of this rule.

(2) [The Missouri Department of Natural Resources hereby adopts and incorporates by reference the provisions of 40 CFR part 72, then 40 CFR part 73, 40 CFR part 75, 40 CFR part 76, 40 CFR part 77, and 40 CFR part 78 as in effect in the Code of Federal Regulations on or after July 1993, for the purpose of establishing certain general provisions and operating permit program requirements for affected sources and affected units under the federal Acid Rain Program.] **Definitions.** Definitions of terms that apply to the Acid Rain Program may be found in 40 CFR 72.2 and 40 CFR 76.2 as specified in section (3) of this rule.

(3) [If the provisions or requirements of 40 CFR part 72 and 40 CFR part 75 conflict with or are not included in Missouri state rule 10 CSR 10-6.065 Operating Permits Required, the parts 72 and 75, provisions and requirements shall take precedence.] **General Provisions.**

(A) The provisions under 40 CFR 72, 40 CFR 73, 40 CFR 75, 40 CFR 76, 40 CFR 77, and 40 CFR 78, promulgated as of July 1, 2019 shall apply and are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington DC 20401. This rule does not incorporate any subsequent amendments or additions.

(B) If the provisions or requirements of 40 CFR 72 and 40 CFR

**75 conflict with or are not included in Missouri state rule 10 CSR 10-6.065 Operating Permits Required, the provisions and requirements of 40 CFR 72 and 40 CFR 75 take precedence.**

**(4) Reporting and Record Keeping.** Reporting and record keeping requirements are specified in the federal regulations incorporated by reference under section (3) of this rule.

**(5) Test Methods.** Test methods are specified in the federal regulations incorporated by reference under section (3) of this rule.

*AUTHORITY:* section 643.050, RSMo [Supp. 1997] 2016. Original rule filed June 2, 1994, effective Dec. 30, 1994. Amended: Filed Oct. 9, 1998, effective Aug. 30, 1999. Amended: Filed Nov. 25, 2019.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing on this proposed amendment will begin at 9:00 a.m., March 26, 2020. The public hearing will be held at the Harry S Truman State Office Building, 301 W High Street, Room 400, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., April 2, 2020. Send online comments via the proposed rules web page [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules), email comments to [apcprulespn@dnr.mo.gov](mailto:apcprulespn@dnr.mo.gov), or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

**PROPOSED AMENDMENT**

**10 CSR 10-6.405 Restriction of Particulate Matter Emissions From Fuel Burning Equipment Used for Indirect Heating.** The commission proposes to amend the rule purpose; and subsections (1)(B), (1)(C), (1)(E), (2)(A), (3)(B), (3)(F), and (5)(F). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules).

*PURPOSE:* The purpose of this proposed amendment is to update incorporation by reference information, make typographical corrections, and remove the unnecessary use of restrictive words. The evidence supporting the need for this proposed amendment, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.

*PURPOSE:* This rule restricts the emission of particulate matter from fuel burning equipment used for indirect heating except where 10 CSR 10-6.070 would be applied. [The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is a necessity evidence memorandum dated March 5, 2008.]

*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) Applicability.

(B) This rule applies to installations in which fuel is burned for the primary purpose of producing steam, hot water, or hot air or other indirect heating of liquids, gases, or solids and, in the course of doing so, the products of combustion do not come into direct contact with process materials. Fuels may include, but are not limited to, coal, tire derived fuel, coke, lignite, coke breeze, gas, fuel oil, biomass, and wood, but do not include refuse. When any products or byproducts of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission rate limitations [shall] apply.

(C) An emission unit that is subject to 10 CSR 10-6.070 and in compliance with applicable provisions; or an emission unit fueled by landfill gas, propane, natural gas, fuel oils #2 through #6 (with less than one and two-tenths percent (1.2%) sulfur), and/or other gases (with hydrogen sulfide levels less than or equal to four (4) parts per million volume as measured using ASTM D4084, as specified in **10 CSR 10-6.040(23)**, or equivalent and mercury concentrations less than forty (40) micrograms per cubic meter as measured using ASTM D5954, as specified in **10 CSR 10-6.040(30)**, or ASTM D6350, as specified in **10 CSR 10-6.040(32)**, or equivalent) would be deemed in compliance with 10 CSR 10-6.405.

(E) An installation is exempt from this rule if all of the installation's applicable units are fueled only by landfill gas, propane, natural gas, fuel oils #2 through #6 (with less than one and two-tenths percent (1.2%) sulfur), or other gases (with hydrogen sulfide levels less than or equal to four (4) parts per million volume as measured using ASTM D4084, as specified in **10 CSR 10-6.040(23)**, or equivalent and mercury concentrations less than forty (40) micrograms per cubic meter as measured using ASTM D5954, as specified in **10 CSR 10-6.040(30)**, or ASTM D6350, as specified in **10 CSR 10-6.040(32)**, or equivalent) or any combination of these fuels.

(2) Definitions.

(A) Existing—Any source which was in being, installed, or under construction on the date provided in the following table:

Area of State	Construction date began on or before
Kansas City Metropolitan Area	February 15, 1979*
St. Louis Metropolitan Area	February 15, 1979*
Springfield-Greene County Area	September 24, 1971
Outstate Area	February 24, 1971

\*Exception: If any source is subsequently [is] altered, repaired, or rebuilt at a cost of thirty percent (30%) or more of its replacement cost, exclusive of routine maintenance, it [shall] is no longer [be] existing [but shall be] and considered [as] new.

(3) General Provisions.

(B) For purposes of this rule, the heat input [shall be] is the aggregate heat content of all fuels whose products of combustion

pass through a stack(s). The hourly heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater, except in the case of boilers of ten (10) million British thermal units (mmBtu) or less the heat input can also be determined by the higher heating value (HHV) of the fuel used at maximum operating conditions. The total heat input of all fuel burning units used for indirect heating at a plant or on a premises *[shall be]* is used for determining the maximum allowable amount of particulate matter which may be emitted.

(F) Alternate Method of Compliance.

1. Compliance with this rule also may be demonstrated if the weighted average emission rate (WAER) of two (2) or more indirect heating sources is less than or equal to the maximum allowable particulate E determined in subsection (3)(D) or (3)(E) of this rule. The WAER for the indirect heating sources to be averaged *[shall be]* is calculated by the following formula:

$$\text{WAER} = \frac{\sum_{i=1}^n (Ea_i \times Q_i)}{\sum_{i=1}^n Q_i}$$

Where:

WAER = the weighted average emission rate in pounds per mmBtu;  
 $Ea_i$  = the actual emission rate of the  $i$ th indirect heating source in pounds per mmBtu;

$Q_i$  = the rated heat input of the  $i$ th indirect heating source in mmBtu per hour; and

$n$  = the number of indirect heating sources in the average.

2. Installations demonstrating compliance with this rule in accordance with the requirements of subsection (3)(F) of this rule *[shall]* do so by making written application to the director. The application shall include the calculations performed in paragraph (3)(F)1. of this rule and all necessary information relative to making this demonstration.

3. Subsection (3)(F) of this rule only *[shall apply]* **applies** if the WAER determined by paragraph (3)(F)2. of this rule for indirect heating sources does not exceed the maximum allowable particulate E determined for that source from subsection (3)(D) or (3)(E) of this rule when using the rated heat input,  $Q_i$ , for the individual indirect heating source as if that individual indirect heating source was the only such source at the installation.

(5) Test Methods. The following hierarchy of methods shall be used to determine compliance with subsections (3)(D) and (3)(E) of this rule:

(F) Any other method, such as AP-42 (U.S. Environmental Protection Agency (EPA) *Compilation of Air [Pollution] Pollutant Emission Factors*) or Factor Information and Retrieval System (FIRE), approved for the source by incorporation into a construction or operating permit, settlement agreement, or other federally enforceable document. **AP-42 (Environmental Protection Agency (EPA) *Compilation of Air Pollutant Emission Factors*) and Factor Information and Retrieval System (FIRE) as published by EPA January 1995 and August 1995 are hereby incorporated by reference in this rule. Copies can be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. This rule does not incorporate any subsequent amendments or additions;** or

*AUTHORITY: section 643.050, RSMo [2000] 2016. Original rule filed Feb. 25, 2011, effective Oct. 30, 2011. Amended: Filed Nov. 25, 2019.*

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *A public hearing on this proposed amendment will begin at 9:00 a.m., March 26, 2020. The public hearing will be held at the Harry S Truman State Office Building, 301 W High Street, Room 400, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., April 2, 2020. Send online comments via the proposed rules web page [www.dnr.mo.gov/proposed-rules](http://www.dnr.mo.gov/proposed-rules), email comments to [apcprulespn@dnr.mo.gov](mailto:apcprulespn@dnr.mo.gov), or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.*

## Title 13—DEPARTMENT OF SOCIAL SERVICES

### Division 70—MO HealthNet Division

#### Chapter 3—Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

#### PROPOSED AMENDMENT

**13 CSR 70-3.240 MO HealthNet Primary Care Health Homes.**  
 The Division is revising sections (1), (3), (4), and (7).

*PURPOSE: This amendment adds chronic pain as a stand-alone chronic condition that qualifies MO HealthNet participants as Primary Care Health Home patients. The amendment also clarifies Health Home certification requirements, adds provider requirements for primary care health homes offering services to patients with chronic pain as a qualifying condition, and clarifies which health home patients will generate per-member, per-month (PMPM) payments to health homes.*

(1) Definitions.

(E) NCQA—National Committee *[of]* for Quality Assurance, an entity chosen by MHD to certify that a primary care practice has obtained a level of Health Home recognition after the practice achieves specified Health Home standards.

(I) *[The Joint Commission—Another entity chosen by MHD to certify that a primary care practice has obtained a level of Health Home recognition after the practice achieves specified Health Home standards.]* **Chronic Pain—Pain that lasts past the time of normal healing and that can lead to other medical conditions such as substance use disorder, becoming overweight/obese, anxiety, and depression. For the purpose of participant eligibility for Primary Care Health Home, chronic pain must be a pre-existing condition for at least twelve (12) consecutive months.**

(3) Health Home Responsibilities After Selection.

(F) By the eighteenth month following the receipt of the first MHD Health Home payment, a practice site participating in the Health Home program shall demonstrate to MHD that the practice site has either—

1. Submitted to the National Committee *[of]* for Quality Assurance (NCQA) an application for Health Home status and has obtained NCQA recognition of Health Home status of at least Level 1 under the most recent NCQA standard; or

2. Applied to *[The Joint Commission for certification]* a **nationally recognized accrediting organization for certification as**

a Primary Care Medical Home.

**(M) In order to provide Health Home services to enrolled participants with chronic pain, clinicians in a Primary Care Health Home must participate in monthly interactive video conferences on chronic pain that will be scheduled by accredited academic institutions. The video conferences will include pain management specialists who will provide guidance on the care of participants with a chronic pain diagnosis. Health Homes will directly collaborate with a pain management specialist on the management of these individuals. A pain management specialist is defined as a licensed physician (MD or DO) who is board certified in anesthesiology or pain management.**

(4) Health Home Patient Requirements.

(A) To become a MO HealthNet Health Home patient, an individual—

1. Must be an MHD participant or a participant enrolled in an MHD managed care health plan; and

2. Must have at least—

A. Two (2) of the following chronic conditions:

(I) Asthma;

(II) Diabetes;

(III) Cardiovascular disease;

(IV) A developmental disability;

(V) Be overweight, as evidenced by having a body mass index (BMI) of at least twenty-five (25) for adults, or being at or above the eighty-fifth (85th) percentile on the standard pediatric growth chart for children;

(VI) Depression;

(VII) Anxiety; *or*

(VIII) Substance use disorder; or

**(IX) Chronic pain; or**

B. One (1) chronic health condition and be at risk for a second chronic health condition as defined by MHD. In addition to being a chronic health condition, diabetes shall be a condition that places a patient at risk for a second chronic condition. Smoking or regular tobacco use shall be considered at-risk behavior leading to a second chronic health condition; or

C. One (1) of the following stand-alone chronic conditions:

(I) Uncontrolled pediatric asthma as defined by MO HealthNet; *or*

(II) Obesity, as evidenced by having a BMI over thirty (30) for adults, or being above the ninety-fifth (95th) percentile on the standard pediatric growth chart for children<sup>1</sup>; or

**(III) Chronic pain.**

(B) A list of participants eligible for Health Home services and identified by MHD as existing users of services at Health Home practices will be provided monthly to each Health Home based on qualifying chronic health conditions. Health Home organizations will determine enrollees from the lists provided by MHD as well as practice patients identified through the Health Homes' EMR systems.

(C) After being enrolled in Health Homes, participants will be granted the option at any time to change their Health Homes if desired. Participants will be given the opportunity to opt out of receiving services from their Health Home providers.

(7) Health Home Payment Components.

(B) MHD Health Homes shall receive per-member-per-month (PMPM) payments to reimburse Health Home sites for costs incurred for patient clinical care management services, comprehensive care coordination services, health promotion services, and Health Home administrative and reporting costs.

1. A Health Home's PMPM reimbursement will be determined from the number of patients that choose, or are assigned to, the Health Home site.

2. A current month's PMPM payments to a Health Home site will be based on—

A. The number of Health Home-eligible patients receiving

Health Home services at the Health Home in the month considered for payment;

B. The number of Health Home-eligible patients in subparagraph (7)(B)2.A. who are assigned to the Health Home at the beginning of the month considered for payment; and

C. The number of Health Home-eligible patients in subparagraphs (7)(B)2.A. and (7)(B)2.B. who are Medicaid-eligible at the end of the month considered for payment.

3. *[During the first year of participation in the Health Home program, a] A Health Home will receive PMPM payments only for MHD or MHD managed care participants[—] who meet the payment requirements in subparagraph (7)(B)2. and who have the required qualifying health home conditions specified in section (4).*

*[A. With two (2) or more of the following chronic conditions:*

*(I) Asthma;*

*(II) Diabetes;*

*(III) Cardiovascular disease, including hypertension;*

*(IV) Overweight (BMI > 25); or*

*(V) Developmental disabilities; or*

*B. With one (1) of the conditions in subparagraph (7)(C)3.A. and be at risk for a second chronic condition because of diabetes or tobacco use.]*

4. In order to generate a PMPM payment to a Health Home, a patient assigned to the Health Home must have received at least one (1) non-Health Home service based on paid Medicaid fee for service or managed care claims.

5. In order to receive PMPM payments, a Health Home must demonstrate to MHD that the Health Home has hired, or has contracted with, a clinical care manager to provide services at the Health Home site.

*AUTHORITY: sections 208.201 and 660.017, RSMo 2016. Original rule filed Dec. 15, 2011, effective July 30, 2012. Amended: Filed Sept. 29, 2016, effective June 30, 2017. Amended: Filed Nov. 27, 2019.*

*PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately twenty thousand three hundred ninety dollars (\$20,390) in SFY 2020 and thirty thousand five hundred eighty-six dollars (\$30,586) in SFY 2021.*

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC COST**

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

<b>Rule Number and Name:</b>	13 CSR 70-3.240 MO HealthNet Primary Care Health Homes
<b>Type of Rulemaking:</b>	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated Total Cost for SFY 2020 = \$20,390.40. Estimated Total Cost for SFY 2021 = \$30,585.60
Government-Owned Primary Care Health Homes (3)	No estimated costs of compliance for SFY 2020 and SFY 2021.

**III. WORKSHEET**

**Estimated Cost for SFY 2020:**

MO HealthNet has identified 40 participants with a chronic pain condition who would be eligible to become primary care health home patients under this amendment. The primary care health homes would begin providing services to the newly eligible patients in September 2019.

The primary care health homes that provide services to these patients receive a per-member, per month (PMPM) payment of \$63.72. Health homes receive PMPM payments two months after the month of service. A participant who enrolls in a primary care health home and receives services in September 2019 would generate a PMPM payment to the health home in November 2019. November 2019 through June 2020 equals 8 months in SFY 2020 in which health homes would receive PMPM payments for the newly eligible health home patients.

40 newly eligible participants X 8 months in SFY 2020 X \$63.72 PMPM rate = \$20,390.40 total increase in MO HealthNet primary care health home expenditures as a result of the amendment.

\$20,390.40 total increase in primary care health home expenditures, multiplied by the federal fiscal year 2020 FMAP of 65.65%, equals \$13,386.30 increase in the federal share of MO HealthNet health home expenditures. \$20,390.40 - \$13,386.30 = \$7,004.10 increase in the state share of MO HealthNet health home expenditures attributable to this amendment.

**Estimated Cost for SFY 2021:**

MO HealthNet has identified 40 participants with a chronic pain condition who would be eligible to become primary care health home patients under this amendment. If those 40 participants are enrolled in primary care health homes for all of state fiscal year (SFY) 2021 and attested every month in SFY 2021 for health home services, the estimated PMPM cost in SFY 2021 would be calculated as: 40 participants, multiplied by the \$63.72 PMPM rate, multiplied by 12 months of payment in SFY 2021, equals \$30,585.60. Using the most recently available FMAP of 65.65% for FFY 2020, the estimated state share of additional PMPM cost for SFY 2021 equals \$30,585.60 multiplied by (1 minus 65.65% FMAP), or \$10,506.15.

**IV. ASSUMPTIONS**

**Government-Owned Primary Care Health Homes (3 Health Homes):** This proposed amendment expands the qualifying eligibility for primary care health homes to include patients with chronic pain and children in foster care. All primary care health homes, including the government-owned health homes, will receive PMPM payments for providing health home services to newly eligible participants. PMPM payments are calculated to cover the costs to the health homes of providing services to eligible participants. The net cost to government-owned health homes for services provided under this amendment is therefore \$0.

**Department of Social Services, MO HealthNet Division:**

MO HealthNet has identified 40 participants with the newly qualifying conditions of this amendment. The Worksheet calculation assumes that all 40 newly eligible participants are enrolled in primary care health homes and start receiving health home services in September 2019. The Worksheet calculation also assumes that all patients with the new qualifying health home conditions generate PMPM payments to the health homes starting in November 2019.

Every health home PMPM payment has its federal share calculated at the FMAP for the current federal fiscal year; the federal and state shares of the increased health home payments therefore use the FFY 2020 FMAP of 65.65%, instead of the blended FMAP for state fiscal years 2020 and 2021. The FFY 2020 FMAP is used for SFY 2021 calculations because the FMAP for FFY 2021 is not yet available.

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

**PROPOSED AMENDMENT**

**13 CSR 70-20.310 Prospective Drug Use Review Process and Patient Counseling.** The department is amending sections (2), (3), (4), and (5).

*PURPOSE:* This amendment adds more specific incorporation by reference language and updates the rule to remove duplication.

(2) Electronic Point-of-Sale Review. The MO HealthNet Division shall provide for electronic point-of-sale review *[of drug therapy using predetermined standards]* before each prescription is dispensed to *[the]* a MO HealthNet participant or MO HealthNet participant's caregiver *[for]* on the *[current]* date of service. *[The process will provide screening for potential drug therapy problems using clinical modules which have been reviewed and approved for use by the Missouri Drug Use Review Board.]* The Missouri Drug Use Review Board will review and approve clinical modules, as outlined in 42 CFR 456.705, Prospective Drug Review as published on October 1, 2018 by the Office of the Federal Register National Archives and Records Administration, US Government Publishing Office US Superintendent of Documents, Washington, DC 20402 and is incorporated by reference and made a part of this rule, as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Ct, Jefferson City, MO 65109, at its website at <https://dssruletracker.mo.gov/dss-proposed-rules/welcome.action>. This rule does not incorporate any subsequent amendments or additions. The MO HealthNet Division will provide electronic point-of-sale screening for potential drug therapy problems using the approved clinical modules on the date of service.

*[(3) Federal Prospective DUR screening requirements for MO HealthNet beneficiaries. 42 CFR part 456.705(b) requires that the state plan must provide for a point of distribution review of drug therapy using predetermined standards before each prescription is filled or delivered to the participant or the participant's caregiver. The review performed with or without online access to the pharmacy point of service system, must include screening to identify potential drug therapy problems of the following types:*

*(A) Incorrect drug dosage, that is, the dosage lies outside the daily dosage range specified in predetermined standards as necessary to achieve therapeutic benefit. Dosage range is the strength multiplied by the quantity dispensed divided by days supply;*

*(B) Adverse drug-drug interaction, that is, the potential for, or occurrence of, an adverse medical effect as a result of the participant using two (2) or more drugs together;*

*(C) Drug-disease contraindication, that is the potential for, or occurrence of—*

*1. An undesirable alteration of the therapeutic effect of a given prescription because of the presence, in the patient for whom it is prescribed, of a disease condition; or*

*2. An adverse effect of the drug on the patient's disease condition.*

*(D) Therapeutic duplication, that is, the prescribing and dispensing of two (2) or more drugs from the same therapeutic class so that the combined daily dose puts the participant at risk of an adverse medical result or incurs additional program costs without additional therapeutic benefit;*

*(E) Incorrect duration of drug treatment, that is, the number of days of prescribed therapy exceeds or falls short of*

*the recommendations contained in the predetermined standards;*

*(F) Drug-allergy interactions, that is, the significant potential for, or the occurrence of, an allergic reaction as a result of drug therapy; and*

*(G) Clinical abuse/misuse, that is, the occurrence of situations referred to in the definitions of abuse, gross overuse, overutilization and underutilization, as defined in 42 CFR 456.702, and incorrect dosage and incorrect duration, as defined in subsections (3)(A) and (E) of this rule.]*

*[(4)](3) [Screens] Electronic Point-of-Sale Review* Available for MO HealthNet Beneficiaries. The following *[screens]* reviews will be provided by the pharmacy point of service system:

(A) Drug Disease Contraindications.

1. Drug (actual) disease precaution.
2. Inferred Drug Disease precaution;

(B) Drug to Drug Interactions;

(C) Side Effects.

1. Additive toxicity side effects.
2. Medical condition/additive side effect.
3. Side effect.

4. Drug indicated for side effect of previously prescribed drug;

(D) Dose Range Checking.

1. High dose alert.
2. Low dose alert;

(E) Minimum/Maximum Daily Dose.

1. High dose alert.
2. Low dose alert;

(F) Duplicate Therapy Checking.

1. Therapeutic duplication.
2. Ingredient duplication; and

(G) Duration of Therapy (H2).

1. Excessive duration alert.

*[(5)](4) MO HealthNet Patient Counseling.* As part of the prospective DUR program, participating pharmacies shall perform patient counseling according to the standards established by the Board of Pharmacy under 20 CSR 2220-2.190. **20 CSR 2220-2.190 is published by the Missouri Secretary of State, at <https://www.sos.mo.gov/cmsimages/adrules/csr/current/20csr/20c2220-2.pdf>, on February 28, 2017. A copy of 20 CSR 2220-2.190 is incorporated by reference and made a part of this rule, as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Ct., Jefferson City, MO 65109, at its website at <https://dssruletracker.mo.gov/dss-proposed-rules/welcome.action>. This rule does not incorporate any subsequent amendments or additions.**

*[(6)](5) MO HealthNet Patient Profiles.* The term $/,$  “reasonable effort” means that each time a MO HealthNet patient or caregiver presents a prescription, the pharmacist or pharmacist's designee should request profile information verbally or in writing. For example, if the patient presents the prescription in person, the request should be made verbally, and if the prescription is received by mail, the request should be made in writing. This does not imply that the service should be denied solely on the basis of the patient's refusal to supply this information. Pharmacies must make a reasonable effort to obtain records and maintain patient profiles containing, at a minimum:

(A) The name, address, telephone number, date of birth (or age), and gender of the patient;

(B) Individual medical history, if significant, including disease states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and

(C) Pharmacist's comments relevant to the individual's drug therapy.



*[(7)](6)* Documentation of Offer to Counsel. The pharmacist shall document for each MO HealthNet patient's prescription in a uniform fashion, whether the offer to counsel was accepted or refused by the patient or the patient's agent.

*[(8)](7)* Agency Responsibility Regarding Confidentiality of Information. All information concerning applicants and participants of medical services shall be kept confidential by the MO HealthNet Division, and any disclosure of this information shall be restricted to purposes directly related to the administration of the medical assistance program. Purposes directly related to administration of the medical assistance program include:

- (A) Establishing eligibility;
- (B) Determining the amount of medical assistance;
- (C) Providing services for participants; and
- (D) Conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the program.

*[(9)](8)* Provider Responsibility Regarding Confidentiality of MO HealthNet Beneficiary Information. All information concerning applicants and participants of medical services shall be confidential. Any disclosure of this information by the pharmacy provider shall be restricted to purposes directly related to the treatment of the patient and promotion of improved quality of care, or conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the program. The confidential information includes:

- (A) Names and addresses;
- (B) Social Security number;
- (C) Medical services provided;
- (D) Social and economic conditions or circumstances;
- (E) Medical data, including diagnosis and past history of disease or disability;
- (F) Any information received for verifying income eligibility; and
- (G) Any information received in connection with the identification of legally liable third party resources.

*AUTHORITY: sections 208.153 [and], 208.201, and 660.017, RSMo [Supp. 2013] 2016. Original rule filed June 3, 1993, effective Dec. 9, 1993. Amended: Filed Sept. 16, 2013, effective March 30, 2014. Amended: Filed Nov. 27, 2019.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

*authority to promulgate rules for the enforcement of Article XIV. This rule explains what provisions are necessary for ensuring an efficient facility licensing/certification process after the initial process of scoring and ranking applications is complete.*

(1) Confirmation and Acceptance of License/Certification. All facilities that are issued a license or certification will be given five (5) days from department notification of issuance to confirm they accept the license or certification. Notification shall be made via the email address and phone number of the applicant's designated primary contact and will include the deadline for accepting. If a facility does not affirmatively accept issuance of a license or certification within the five (5) days following notification, the license or certification will be offered to the next ranked facility, as applicable, until all available licenses and certifications are issued and accepted.

(2) Conditional Denials. All cultivation, dispensary, manufacturing, and testing facility applications that meet minimum standards as described in 19 CSR 30-95.040(4)(A) but are denied due to the results of numerical scoring shall be regarded as "conditionally denied" for a period of three hundred ninety-five (395) days for the purpose of maintaining eligibility for any licenses or certifications that become available within that time period. Conditionally denied applications will be eligible for licenses or certifications as follows:

(A) For each available license or certification of a particular facility type that may become available during a time period when there are applications that have been conditionally denied, the department will issue the license or certification to the highest ranked applicant of that facility type or, in the case of dispensaries, of that facility type and in the applicable congressional district, subject to applicable limits regarding facilities under substantially common control.

(B) Facilities issued a license or certification under this section shall be subject to all regulations and laws applicable to any other licensed or certified facilities of the same type.

(C) A conditional denial will be considered a denial for purposes of appeal under 19 CSR 30-95.025.

*AUTHORITY: sections 1.3.(1)(b) and 1.3.(2) of Article XIV, Mo. Const. Emergency rule filed Nov. 26, 2019, effective Dec. 12, 2019, expires June 8, 2020. Original rule filed Nov. 26, 2019.*

*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 Lyndall Fraker, PO Box 570, Jefferson City, MO 65102 or via email at MMPublicComment@health.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 95—Medical Marijuana**

**PROPOSED RULE**

**19 CSR 30-95.028 Additional Licensing Procedures**

*PURPOSE: The Department of Health and Senior Services has the*

**T**his 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 or 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*.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Agriculture under section 265.020, RSMo 2016, the Missouri Department of Agriculture amends a rule as follows:

**2 CSR 30-2.020 Movement of Livestock, Poultry, and Exotic Animals Within Missouri is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2019 (44 MoReg 2087). 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 2—DEPARTMENT OF AGRICULTURE  
Division 30—Animal Health  
Chapter 10—Food Safety and Meat Inspection**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Agriculture under section 265.020, RSMo 2016, the Missouri Department of

Agriculture amends a rule as follows:

**2 CSR 30-10.010 Inspection of Meat and Poultry is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2019 (44 MoReg 2283). 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 4—Wildlife Code: General Provisions**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-4.135 Transportation is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1832-1833). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from twelve (12) individuals on the proposed amendment.

COMMENTS: Charles Kozlowski, St. Charles; Phil Needham, location unknown; Victor Eisenbeis, Warrenton; Debi Boughton, Kirksville, and Keith Voss, Leslie, expressed general support for the proposed changes to limit transportation of cervid carcasses into and within the state and establish provisions for transporting cervid carcasses to processors and taxidermists.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes.

COMMENTS: Doris Koch, Washington; Frank Hasapes, Kearney; Lance (no last name), location unknown; Lloyd Brotherton, Kahoka; Robert Fredman, Jacksonville; Dawn Anderson, location unknown, and Darlene Baskins, location unknown, expressed general opposition to the proposed changes to limit transportation of cervid carcasses into and within the state and establish provisions for transporting cervid carcasses to processors and taxidermists.

RESPONSE: To the extent there were specific comments provided, the commission has addressed them below.

COMMENTS: Frank Hasapes, Kearney; Dawn Anderson, location unknown, and Darlene Baskins, location unknown, voiced opposition to the proposed changes due to potential implications for those who harvest deer in a Chronic Wasting Disease (CWD) Management Zone county and wish to process it themselves in their county of residence outside of the management zone.

RESPONSE: With the finding of CWD in Missouri, it is important to prevent the further spread of the disease by the movement of potentially-infected carcasses. Prions, the infective agent of CWD, do not degrade on the land and cannot be burned; therefore, proper disposal is necessary to stop human-assisted disease spread. Requiring the use

of a sanitary landfill will allow movement of carcasses and carcass parts within the state, while still allowing the Department of Conservation (department) to meet disease management goals. It is important to prevent the further spread of the disease and minimize risk by limiting the role carcasses play in disease spread.

Finally, individuals may still process a deer at their residence outside the CWD Management Zone; however, the spine and skull must be removed prior to leaving the county of harvest. The initial processing of quartering, caping, and skull capping are a common practice of hunters for the purpose of transporting the animal prior to final processing. No changes to the rule have been made as a result of these comments.

COMMENTS: Lance (no last name), location unknown, and Robert Fredman, Jacksonville, voiced opposition to the proposed changes due to potential negative fiscal impacts on meat processors and taxidermists.

RESPONSE: With the finding of CWD in Missouri, it is important to prevent the further spread of the disease by the movement of potentially-infected carcasses. Prions, the infective agent of CWD, do not degrade on the land and cannot be burned; therefore, proper disposal is necessary to stop human-assisted disease spread. Requiring the use of a sanitary landfill will allow movement of carcasses and carcass parts within the state, while still allowing the department to meet disease management goals. It is important to prevent the further spread of the disease and minimize risk by limiting the role carcasses play in disease spread.

In a department survey of hunters, they indicated that only about one third (1/3) bring their harvested deer to a processor. In a 2017 direct contact survey of processors and taxidermists, about sixty-nine percent (69%) already used a landfill service to dispose of carcass parts. In a 2019 follow-up with the thirty-one percent (31%) of respondents not using landfill services, forty percent (40%) of those commercial entities had already started using landfill services. The department concludes that the majority of commercial processors and taxidermists now utilize landfill services. The importance of this rule is to address those entities that do not currently use landfill services, albeit a smaller proportion than those that already do. No changes to the rule have been made as a result of these comments.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 4—Wildlife Code: General Provisions**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-4.200** Chronic Wasting Disease; Management Zone  
**is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1833). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from four (4) individuals on the proposed amendment.

COMMENTS: Victor Eisenbeis, IL; Debi Boughton, Kirksville, and Patrick Maloney, St. Louis, expressed general support for the proposal to remove the requirement for all deer presented for Chronic Wasting Disease sample collection have least six inches (6") of neck

attached from this rule.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes.

COMMENT: Lloyd Brotherton, Kahoka, expressed general opposition to proposed changes to this rule.

RESPONSE: This change will simplify the *Wildlife Code*. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-5.250 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1833-1834). Those sections with changes are reprinted here. This proposed amendment becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from thirty-five (35) individuals on the proposed amendment.

COMMENTS: Albert (no last name), location unknown; Barclay Rivas, Pacific; Daniel Krupa, Wildwood; David DeVeydt, Ballwin; Edward Pilla, St. Peters; Harrison Bohn, St. Louis; Keith Voss, Leslie; Larry Vaughan, Cole Camp; Lloyd Brotherton, Kahoka; Michael Kozlowski, St. Charles; Patrick Maloney, St. Louis; Phil Needham, location unknown; Richard Ray, Belton; Thomas Potter, Sr., Ellisville, and William Byrd, Wildwood, expressed general support for the proposal to increase fees for daily trout fishing tags required at the four (4) trout parks.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes.

COMMENTS: Bruce Kondracki, Wildwood; Charles Forrest, Knob Noster; Dan (no last name), Cape Girardeau; Daniel Whitaker, Salem; Eldon Kaufmann, Perryville; Gaye Sponamore, Silex; Jerry Adzima, Chesterfield; Joe Secrest, Sullivan; Mikel White, Festus; Paul Smith, Neosho; Paul Whitaker, Salem; Robert Boone, Buffalo; Robert Maley, location unknown; Ronald Murphy, location unknown; Sam Madsen, Cassville; Steve Treiber, Eureka; Ted Robertson, Lohman; Wayne Gieselmann, Independence, and Frank and Nora Smith, Birch Tree, expressed general opposition to the proposed increase to fees associated with daily trout fishing tags.

RESPONSE: To the extent there were specific comments provided, the commission has addressed them below.

COMMENTS: Daniel Whitaker, Salem; Jerry Adzima, Chesterfield; Paul Whitaker, Salem; Robert Boone, Buffalo; Steve Treiber, Eureka, and Wayne Gieselmann, Independence, indicated that if the permit fee is increased, the bag limit should also be increased from four (4) to five (5) fish per day.

RESPONSE: The department issues permits and privileges for the opportunity to pursue and take fish and wildlife in Missouri. The department releases about one point seven (1.7) million trout around the state for public fishing each year. These trout are stocked at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and

at numerous lakes around the state as part of its winter trout-fishing program.

The reduction in the daily limit of trout from five (5) to four (4) occurred in 2005 as part of the department's "A Plan for Missouri Trout Fishing". The very first goal of the plan stated that the department wanted to "Maintain quality trout fishing opportunities" and then listed objectives to accomplish that goal. Reduction of the statewide daily limit, objective 1.2, redistributed twenty percent (20%) of the statewide harvest of trout to more anglers. This redistribution aimed to increase angler success and provide more anglers the opportunity to take a daily limit from a limited resource provided by the department. No changes have been made to the rule as a result of these comments.

**COMMENTS:** Paul Smith, Neosho; Robert Boone, Buffalo, and Robert Murphy, location unknown, voiced concern that the fee increase will discourage youth and new angler recruitment.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state.

The proposed fee increases will keep Missouri fishing fees at or below the costs of similar permits required in the states bordering Missouri. For example, the proposed fee for a daily fishing permit in Missouri will increase from seven dollars (\$7) to eight dollars (\$8) for residents and nonresidents. In contrast, all bordering states will have higher nonresident daily fishing permit prices and only Kentucky and Illinois will have lower resident daily fishing permits. Thus, permit fee increases should not be a barrier for anglers to enjoy Missouri's natural resources. No changes have been made to the rule as a result of these comments.

**COMMENTS:** Robert Maley, location unknown, and Sam Madsen, Cassville, voiced concern that any increase in nonresident permit fees will decrease tourism in Missouri.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state.

The proposed fee increases will keep Missouri fishing fees at or below the costs of similar permits required in the states bordering Missouri. For example, the proposed fee for a daily fishing permit in Missouri will increase from seven dollars (\$7) to eight dollars (\$8) for residents and nonresidents. In contrast, all bordering states will have higher nonresident daily fishing permit prices and only Kentucky and Illinois will have lower resident daily fishing permits. Thus, permit fee increases should not be a barrier for anglers to enjoy Missouri's natural resources. No changes have been made to the rule as a result of these comments.

**COMMENTS:** Robert Maley, location unknown, and Ted Robertson, Lohman, expressed opposition to using the Consumer Price Index as the basis for fee increases.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state.

The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely-used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of these comments.

**COMMENTS:** Paul Smith, Neosho, and Ronald Murphy, location unknown, voiced concern that the proposed fee increase will disrupt important family traditions.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state.

The proposed fee increases will keep Missouri fishing fees at or below the costs of similar permits required in the states bordering Missouri. For example, the proposed fee for a daily fishing permit in Missouri will increase from seven dollars (\$7) to eight dollars (\$8) for residents and nonresidents. In contrast, all bordering states will have higher nonresident daily fishing permit prices and only Kentucky and Illinois will have lower resident daily fishing permits. Thus, permit fee increases should not be a barrier for anglers to enjoy Missouri's natural resources. No changes have been made to the rule as a result of these comments.

**COMMENTS:** Jerry Adzima, Chesterfield, and Steve Treiber, Eureka, voiced opposition to the proposed changes; however, they voiced support for a larger fee increase to five dollars (\$5) if the daily limit is increased to five (5) fish.

**RESPONSE AND EXPLANATION OF CHANGES:** Given the Department of Conservation's desire to offer additional opportunity for citizens where possible, staff have modified the original verbiage of this rule change to allow for establishment of a pilot program at one (1) trout park. The pilot program will allow a daily limit of five (5) fish at Maramec Spring Park beginning on March 1, 2020, and the cost of the daily permit will be five dollars (\$5) for adults and three dollars (\$3) for persons fifteen (15) and under. The permit fee portion of the pilot program is being incorporated in this rulemaking. Changes to other rules to adjust the daily limit for trout on this area will be made separately.

### 3 CSR 10-5.250 Daily Hunting or Fishing Tags

(1) Required in addition to the prescribed permit to pursue, take, possess, and transport any wildlife on special management areas where daily permits or tags are required by regulation. Fee:

(A) Daily trout fishing tag required from March 1 through October 31 for Bennett Spring, Montauk, and Roaring River state parks; four dollars (\$4) for adults and three dollars (\$3) for persons fifteen (15) years of age or younger.

(B) Daily trout fishing tag required from March 1 through October 31 for Maramec Spring Park; five dollars (\$5) for adults and three dollars (\$3) for persons fifteen (15) years of age or younger.

**REVISED PUBLIC COST:** This proposed amendment will cost state agencies or political subdivisions an estimated one thousand five hundred dollars (\$1,500) annually in the aggregate.

**REVISED PRIVATE COST:** This proposed amendment will cost private entities an estimated four hundred fifty thousand dollars (\$450,000) annually in the aggregate.

**REVISED FISCAL NOTE  
PUBLIC COST**

- I. Department Title: Department of Conservation  
Division Title: Division 10 – Conservation Commission  
Chapter Title: Chapter 5—Wildlife Code: Permits**

<b>Rule Number and Name:</b>	3 CSR 10-5.250 Daily Hunting or Fishing Tags
<b>Type of Rulemaking:</b>	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the aggregate.
Missouri Department of Conservation	\$1,500 annual aggregate

**III. WORKSHEET**

50,000 (approximate number of area daily trout tags sold) X \$ .03 (average cost to print daily trout tags) = \$1,500.

**IV. ASSUMPTIONS**

Daily Trout Tag sales at Maramec Spring Park in 2017 consisted of 41,014 adults and 6,476 youth. Average printing costs for daily trout tags is three cents (.03) per tag.

**REVISED FISCAL NOTE  
PRIVATE COST**

- I. **Department Title: Department of Conservation**  
**Division Title: Division 10 – Conservation Commission**  
**Chapter Title: Chapter 5—Wildlife Code: Permits**

<b>Rule Number and Name:</b>	3 CSR 10-5.250 Daily Hunting or Fishing Tags
<b>Type of Rulemaking:</b>	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Approximately 400,000 individuals	Individuals purchasing an area daily trout tag	\$450,000 annual aggregate

**III. WORKSHEET**

Daily Trout Tag sales at Bennett Spring, Montauk, and Roaring River state parks:  
350,000 (area daily trout tags sold) X \$1.00 (increase in area daily trout tag price based on 75% CPI) = \$350,000.

Daily Trout Tag sales at Maramec Spring Park:  
50,000 (area daily trout tags sold) X \$2.00 (increase in area daily trout tag price based on 75% CPI and a proposed pilot project, considering public comments regarding raising the tag price to \$5 with a daily limit of 5 trout) = \$100,000.

**V. ASSUMPTIONS**

For the permit year 2020, we estimate 400,000 individuals will acquire an area daily trout tag. We used a 75% of Consumer Price Index (CPI) to adjust the area daily trout tag. This would increase an area daily trout tag price by one dollar (\$1) at Bennett Spring, Montauk, and Roaring River state parks.

At Maramec Spring Park we estimate 50,000 individuals will acquire an area daily trout tag. We used a 75% of Consumer Price Index (CPI) to adjust the area daily trout tag. In addition, we took into consideration public comments received, during the secretary of state’s regulation comment period, regarding raising the tag price to \$5 with a daily limit of 5 trout. These two considerations would increase the area daily trout tag at Maramec Spring Park by two dollars (\$2).

In economic terms, permit pricing can be monitored in relation to the general cost of living as expressed through the Consumer Price Index (CPI). Instead of evaluating prices only in terms of revenue, a more logical choice for triggering consideration of price adjustments is the relationship of price to inflation as reflected in the CPI. The CPI is a widely used economic statistic and commonly used as the basis of adjustments to everything from salaries to contract terms and prices.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.430 Trout Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1835-1836). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from twenty-seven (27) individuals on the proposed amendment.

**COMMENTS:** Cecil Higgins, Hermitage; David DeVeydt, Ballwin; Edward Pilla, St. Peters; Glen Feeney, Maryland Heights; Harrison Bohn, St. Louis; Kirk Ekern, Mexico; Larry Rodgers, Rolla; Lloyd Brotherton, Kahoka; Marlin Hartman, Dent Co.; Michael Willard, Troy; Patrick Maloney, St. Louis; Richard Woodward, Carrollton; Sherman Rotskoff, St. Louis, and Terry Wilke, St. Louis, expressed general support for the proposed increase to trout permit fees.

**RESPONSE:** The commission thanks those individuals who voiced support for the regulation changes.

**COMMENTS:** Al (no last name), St. John; Dan (no last name), location unknown; David Ancell, location unknown; Dennis Craft, Branson West; Frank and Nora Smith, Birch Tree; Franklin Hasapes, Kearney; Harry Nandory, location unknown; Jerry Johnston, Marshfield; Kenneth Smith, Pierce City; Robert Maley, location unknown; Sebrina Sima, Flemington, and Ted Robertson, Lohman, expressed opposition to the proposed increase to trout permit fees.

**RESPONSE:** To the extent there were specific comments provided, the commission has addressed them below.

**COMMENT:** Harry Nandory, location unknown, indicated that if the permit fee is increased, the bag limit should also be increased from four (4) to five (5) fish per day.

**RESPONSE:** The Department of Conservation (department) issues permits and privileges for the opportunity to pursue and take fish and wildlife in Missouri. The department releases about one point seven (1.7) million trout around the state for public fishing each year. These trout are stocked at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program.

The reduction in the daily limit of trout from five (5) to four (4) occurred in 2005 as part of the department's *"A Plan for Missouri Trout Fishing"*. The very first goal of the plan stated that the department wanted to *"Maintain quality trout fishing opportunities"* and then listed objectives to accomplish that goal. Reduction of the statewide daily limit, objective 1.2, redistributed twenty percent (20%) of the statewide harvest of trout to more anglers. This redistribution aimed to increase angler success and provide more anglers the opportunity to take a daily limit from a limited resource provided by the department. No changes have been made to the rule as a result of this comment.

**COMMENT:** Frank Hasapes, Kearney, voiced concern that the fee increase will discourage youth and new angler recruitment.

**RESPONSE:** Permit prices have not kept pace with inflation and the

majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state.

The proposed fee increases will keep Missouri fishing fees at or below the costs of similar permits required in the states bordering Missouri. For example, the proposed fee for a daily fishing permit in Missouri will increase from seven dollars (\$7) to eight dollars (\$8) for residents and nonresidents. In contrast, all bordering states will have higher nonresident daily fishing permit prices and only Kentucky and Illinois will have lower resident daily fishing permits. Thus, permit fee increases should not be a barrier for youth anglers to enjoy Missouri's natural resources. No changes have been made to the rule as a result of this comment.

**COMMENTS:** Harry Nandory, location unknown, and Sebrina Sima, Flemington, indicated that the amount of the increase is too much and smaller increase would be more appropriate.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state.

The proposed fee increases will keep Missouri fishing fees at or below the costs of similar permits required in the states bordering Missouri. For example, the proposed fee for a daily fishing permit in Missouri will increase from seven dollars (\$7) to eight dollars (\$8) for residents and nonresidents. In contrast, all bordering states will have higher nonresident daily fishing permit prices and only Kentucky and Illinois will have lower resident daily fishing permits. Thus, permit fee increase should not be a barrier for anglers to enjoy Missouri's natural resources. No changes have been made to the rule as a result of these comments.

**COMMENT:** Robert Maley, location unknown, voiced concern that any increase in nonresident permit fees will decrease tourism in Missouri.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state.

The proposed fee increases will keep Missouri fishing fees at or below the costs of similar permits required in the states bordering Missouri. For example, the proposed fee for a daily fishing permit in Missouri will increase from seven dollars (\$7) to eight dollars (\$8) for residents and nonresidents. In contrast, all bordering states will have higher nonresident daily fishing permit prices and only Kentucky and Illinois will have lower resident daily fishing permits. Thus, permit fee increases should not be a barrier for anglers to enjoy Missouri's natural resources. No changes have been made to the rule as a result of this comment.

**COMMENT:** Ted Robertson, Lohman, expressed opposition to using the Consumer Price Index as the basis for fee increases.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and

utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely-used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.440 Daily Fishing Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1837-1838). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from eight (8) individuals on the proposed amendment.

**COMMENTS:** Lloyd Brotherton, Kahoka, and Harrison Bohn, St. Louis, expressed support for a proposed increase to fees associated with daily fishing permits.

**RESPONSE:** The commission thanks those individuals who voiced support for the regulation changes.

**COMMENTS:** Wayne Wilson, Bonnots Mill; Phil Neeham, location unknown; Scott McCormack, High Ridge; Richard Mckie, Independence; Doug Enyart, Piedmont, and Dan (no last name), location unknown, expressed general opposition to a proposed increase to fees associated with daily fishing permits.

**RESPONSE:** To the extent there were specific comments provided, the commission has addressed them below.

**COMMENTS:** Richard McKie, Independence, and Doug Enyart, Piedmont, voiced concern that any increase in nonresident permit fees will decrease tourism in Missouri.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state.

The proposed fee increases will keep Missouri fishing fees at or below the costs of similar permits required in the states bordering Missouri. For example, the proposed fee for a daily fishing permit in Missouri will increase from seven dollars (\$7) to eight dollars (\$8) for residents and nonresidents. In contrast, all bordering states will have higher nonresident daily fishing permit prices and only Kentucky and Illinois will have lower resident daily fishing permits. Thus, permit fee increases should not be a barrier for anglers to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

**COMMENT:** Doug Enyart, Piedmont, expressed opposition to using the Consumer Price Index as the basis for fee increases.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of pro-

viding conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely-used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.445 Daily Small Game Hunting Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1839-1840). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from seven (7) individuals on the proposed amendment.

**COMMENT:** Lloyd Brotherton, Kahoka, expressed support for a proposed increase to fees associated with daily small game hunting permits.

**RESPONSE:** The commission thanks those individuals who voiced support for the regulation changes.

**COMMENTS:** Michael Kozlowski, St. Charles; Phil Needham, location unknown; Steven Huskey, Hillsboro; Doug Enyart, Piedmont; Benjamin Peters, Linn, and Dan (no last name), location unknown, submitted comments in opposition to a proposed increase to fees associated with daily small game hunting permits.

**RESPONSE:** To the extent there were specific comments provided, the commission has addressed them below.

**COMMENT:** Doug Enyart, Piedmont, voiced concern that any increase in nonresident permit fees will decrease tourism in Missouri.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. The proposed fee increases will still be comparable to other bordering states, with only Illinois continuing to have a lower fee. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of



this comment.

COMMENT: Doug Enyart, Piedmont, expressed opposition to using the Consumer Price Index as the basis for fee increases.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely-used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of this comment.

COMMENTS: Steven Huskey, Hillsboro, and Benjamin Peters, Linn, indicated their opinion that permit fee increases are unnecessary and the department should be able to operate within its current funding levels.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017. No changes to the rule have been made as a result of these comments.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.540 Nonresident Fishing Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1841-1842). No changes have been made in the text of

the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from fifteen (15) individuals on the proposed amendment.

COMMENTS: Robert Ruh, St. Louis; Lance (no last name), location unknown; Joseph Reed, St. Clair; Lloyd Schweigert, Ste. Genevieve; Dylan Cluver, location unknown; Ken Kelley, St. Charles, and Patrick Maloney, St. Louis, expressed general support for the proposed increase to fees associated with nonresident fishing permits. Of those, Robert Ruh and Lance (no last name) expressed support for larger increases and Lloyd Schweiger and Patrick Maloney suggested that reciprocal permit pricing be set for all nonresident permit fees.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes. No changes to the rule have been made as a result of these comments.

COMMENTS: Frank and Nora Smith, Birch Tree; Mark Gardner, CO; William Fox, KS; Doug Enyart, Piedmont; Cindy Bennett, Edwards; Phillip Alexander, St. Louis, and Robert Maley, location unknown, submitted comments in opposition to a proposed increase to fees associated with nonresident fishing permits.

RESPONSE: To the extent there were specific comments provided, the commission has addressed them below.

COMMENTS: Doug Enyart, Piedmont; Robert Maley, location unknown, and Frank and Nora Smith, Birch Tree, voiced concern that any increase in nonresident permit fees will decrease tourism in Missouri.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. The proposed fee increases will still be comparable to other bordering states. Thus, modest permit fee increases should not be a barrier for fisherman to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

COMMENTS: Mark Gardner, CO, and Doug Enyart, Piedmont, expressed opposition to using the Consumer Price Index as the basis for fee increases.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely-used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of these comments.

COMMENT: Mark Gardner, CO, indicated his opinion that permit fee increases are unnecessary and the department should be able to operate within its current funding levels.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.545 Nonresident Small Game Hunting Permit  
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1843-1844). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from eight (8) individuals on the proposed amendment.

COMMENT: Rod Gremaud, St. Peters, expressed general support for the proposed increase to fees associated with nonresident small game hunting permits.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes.

COMMENTS: Mark Gardner, CO; Josh Dixon, Parkville; Kathy Word, Doniphan; Richard McKie, Independence; Rand Swanigan, location unknown; Doug Enyart, Piedmont, and Mark Danz, IA, expressed opposition to the proposed increase to fees associated with nonresident small game hunting permits.

RESPONSE: To the extent there were specific comments provided, the commission has addressed them below.

COMMENTS: Mark Gardner, CO, and Doug Enyart, Piedmont, expressed opposition to using the Consumer Price Index as the basis for fee increases.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example,

in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of these comments.

COMMENTS: Doug Enyart, Piedmont; Kathy Word, Doniphan; Richard McKie, Independence, and Rand Swanigan, location unknown, voiced concern that any increase in nonresident permit fees will decrease tourism in Missouri.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state.

The proposed fee increases will still be comparable to other bordering states, with only Illinois continuing to have a lower fee. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

COMMENT: Mark Gardner, CO, indicated his opinion that permit fee increases are unnecessary and the department should be able to operate within its current funding levels.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.551 Nonresident Firearms Any-Deer Hunting Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1845-1846). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from fifty-five (55) individuals on the proposed amendment.

**COMMENTS:** Bob Brown, Carthage; Debi Boughton, Kirksville; Frank Dunkel, FL; Glen Amundsen, Jasper; Greg Benson, location unknown; J. Martin, New Franklin; James Toth, MI; James Wilkerson, Buffalo; James Jacobs, St. Ann; Jason Crouch, Bradleyville; John Dowling, Kearney; Keith Kojis, Washington; Ken Kelley, St. Charles; Kyle (no last name), location unknown; Lance Brewen, Bonne Terre; Larry Rodgers, Rolla; Lloyd Brotherton, Kahoka; Lloyd Schweigert, Ste. Genevieve; Martin (no last name), New Franklin; Orville Tull, St. Louis; Ronald Smoot, Shelbina, and Sherry Helton, Villa Ridge, expressed general support for the proposed increase to fees associated with nonresident firearms any-deer hunting permits.

**RESPONSE:** The commission thanks those individuals who voiced support for the regulation changes.

**COMMENTS:** John Culbertson, Sikeston; Billy Rex West, TX; Doug Enyart, Piedmont; Ed Bergin, WI; Ed Kautsch, Sanger; Ellen Bean, TX; Frank and Nora Smith, Birch Tree; Frank Selman, Grovespring; Gawain Willis, Robertsville; Jason Dale, TN; Jeff (no last name), IL; Jeff Hoskins, AR; Jerry Wilding, Wildwood; Josh Dixon, Parkville; Kevin Browne, IN; Kurt (no last name), AL; Mark Danz, IA; Mark Gardner, CO; Marlin Hartman, Dent Co.; Maurice Jackson, Neck City; Michael Mueller, St. Louis; Pete Swanson, IL; Robert Ruh, St. Louis; Robert Maley, location unknown; Robin Garkie, IL; Gary Schnurr, IL; Ronald Ralph, PA; Travis Franklin, IL; Troy Wallace, IL; Wayne Garrison, Springfield; William Boyett, FL, and William Reese, IL, expressed opposition to the proposed increase to fees associated with nonresident firearms any-deer hunting permits.

**RESPONSE:** To the extent there were specific comments provided, the commission has addressed them below.

**COMMENTS:** Mark Gardner, CO, and Doug Enyart, Piedmont, expressed opposition to using the Consumer Price Index as the basis for fee increases.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely

used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of these comments.

**COMMENTS:** Doug Enyart, Piedmont; Frank and Nora Smith, Birch Tree; Jerry Wilding, Wildwood; Josh Dixon, Parkville; Kevin Browne, IN; Pete Swanson, IN; Robert Maley, location unknown, and Ronald Ralph, PA, voiced concern that an increase in nonresident permit fees will decrease tourism in Missouri.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, we will still have the lowest permit fee. Missouri will still be half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

**COMMENTS:** Billy Rex West, TX; Ed Kautsch, Sanger; Gawain Willis, Robertsville; Jeff Hoskins, AR; Josh Dixon, Parkville; Mark Danz, IA; Mark Gardner, CO, and Michael Mueller, St. Louis, indicated the proposed fee increase will discourage former Missouri residents from returning to their home state to hunt.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, even with a fee increase Missouri will still have the lowest permit fee. Missouri's deer permit fee will be half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

**COMMENTS:** Robin Garkie, IL; Kurt (no last name), AL; Kevin Brown, IN; Jason Dale, TN, and Ellen Bean, TX, indicated the proposed fee increase is unfair to nonresident landowners who own smaller acreages and will not be eligible to receive reduced-cost nonresident landowner permits.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, even with a forty dollar (\$40) increase, Missouri will still have the lowest permit fee. Missouri's deer permit fee will be half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources.

Creation of a Nonresident Landowner Firearms Any-Deer Hunting Permit for nonresident landowners with 75-acres or more is a balanced response to nonresident hunters who own land in Missouri and residents who desire nonresident permit fees were higher. Nonresident landowners can and do provide sales tax revenue to the state when they come to hunt on their property, albeit not as much as residents. Creation of a Nonresident Landowner Firearms Any-Deer Hunting Permit in conjunction with an increased fee for the Nonresident Firearms Any-Deer Hunting Permit is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of these comments.

**COMMENT:** Jeff Hoskins, AR, suggested that Missouri implement a daily hunting fee structure for nonresidents, similar to Arkansas.

**RESPONSE:** Arkansas does have a daily hunting license; however, this permit allows for take of multiple species (e.g., deer and turkey). Unlike Arkansas, the department's permit system is setup for individual species management that allows for differing management strategies. We do, however, offer an Archer's Hunting Permit that provides

for multiple species of harvest because of the lesser harvest efficiency of the method. No changes to the rule have been made as a result of this comment.

COMMENTS: Josh Dixon, Parkville, and Marlin Hartman, Dent Co., voiced concern that higher permit fees will result in increases in the deer population.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, even with a forty dollar (\$40) increase, our state will still have the lowest permit fee. Missouri's deer permit fee will be half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. We do not expect a sustained decrease in permits issued and do not expect a significant decrease in harvest due to this fee increase. No changes to the rule have been made as a result of these comments.

COMMENTS: Maurice Jackson, Neck City, and Wayne Garrison, Springfield, indicated that higher nonresident permit fees will result in the loss of important family hunting traditions.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, even with a fee increase, our state will still have the lowest permit fee. Missouri's deer permit fee will be half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

COMMENTS: Ed Bergin, WI; Jeff (no last name), IL; Mark Gardner, CO; Maurice Jackson, Neck City; Pete Swanson, IL; Ronald Ralph, PA; Troy Wallace, IL; Wayne Garrison, Springfield, and William Reese, IL, indicated that they and other nonresidents will no longer travel to Missouri to hunt due to the increased permit fees.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, even with a fee increase, Missouri will still have the lowest permit fee. Missouri's deer permit fee will be half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

COMMENTS: Mark Gardner, CO, and Kurt (no last name), AL, indicated that permit fee increases are unnecessary and the department should be able to operate within its current funding levels.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and

utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017. No changes to the rule have been made as a result of these comments.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.552 Nonresident Firearms Antlerless Deer Hunting Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1847). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from nine (9) individuals on the proposed amendment.

COMMENTS: Glen Amundsen, Jasper; Boyce Wooley, Dexter; Ken Kelley, St. Charles, and Kenneth Bostick, FL, expressed general support for the proposal to add the Nonresident Landowner Firearms Any-Deer Hunting Permit to the list of permits required as prerequisites to purchase a Nonresident Firearms Antlerless Deer Hunting Permit; however, specific comments pertained to proposals to increase nonresident permit prices and establish reduced-cost deer and turkey hunting permits for nonresident landowners with seventy-five (75) or more contiguous acres in Missouri.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes; specific comments have been addressed with others received on orders of rulemaking for 3 CSR 10-5.551 Nonresident Firearms Any-Deer Hunting Permit and 3 CSR 10-5.576 Nonresident Landowner Any-Deer Hunting Permit.

COMMENTS: Frank and Nora Smith, Birch Tree; Lloyd Brotherton, Kahoka; Marlin Hartman, Dent Co., and Mark Danz, IA, expressed general opposition to the proposed changes; however, specific comments pertained to other proposed rule changes.

RESPONSE: These comments have been addressed with others received on orders of rulemaking for 3 CSR 10-5.551 Nonresident Firearms Any-Deer Hunting Permit, 3 CSR 10-5.576 Nonresident Landowner Any-Deer Hunting Permit, and 3 CSR 10-20.805 Definitions. No changes to the rule have been made as a result of these comments.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.559 Nonresident Managed Deer Hunting Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1847-1848). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from eight (8) individuals on the proposed amendment.

**COMMENTS:** Kyle (no last name), location unknown; Lloyd Brotherton, Kahoka; Sherman Rotskoff, St. Louis, and Sherry Helton, Villa Ridge, expressed general support for the proposed increase to fees associated with nonresident managed deer hunting permits.

**RESPONSE:** The commission thanks those individuals who voiced support for the regulation changes.

**COMMENTS:** Ronald Gabbert, Pleasant Valley; Mark Gardner, CO; Gary Schnur, IL, and Doug Enyart, Piedmont, submitted comments in opposition to a proposed increase to fees associated with nonresident managed deer hunting permits.

**RESPONSE:** To the extent there were specific comments provided, the commission has addressed them below.

**COMMENT:** Gary Schnur, IL, indicated opposition to a proposed increase to fees associated with nonresident managed deer hunting permits; however, specific comments pertained to proposed changes to other nonresident deer hunting permit fees.

**RESPONSE:** These comments have been addressed with others received on the order of rulemaking for 3 CSR 10-5.551 Nonresident Firearms Any-Deer Hunting Permit. No changes to the rule have been made as a result of this comment.

**COMMENTS:** Mark Gabbert, Pleasant Valley, and Kyle (no last name), location unknown, indicated opposition to the proposed changes; however, specific comments indicated opposition to nonresident participation in managed deer hunts.

**RESPONSE:** The managed hunt system is used to control deer numbers in specific hunt locations. Nonresident participation in these hunts is much lower than residents and does not affect the overall chances for success. No changes to the rule have been made as a result of these comments.

**COMMENT:** Mark Gardner, CO, and Doug Enyart, Piedmont, expressed opposition to using the Consumer Price Index as the basis for fee increases.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely used economic statistic and commonly used as the basis of making

adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of these comments.

**COMMENT:** Mark Gardner, CO, indicated the proposed fee increase will discourage former Missouri residents and other nonresidents from returning to their home state to hunt.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, our state will still have the lowest permit fee and will be priced at half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of this comment.

**COMMENT:** Doug Enyart, Piedmont, voiced concern that an increase in nonresident permit fees will decrease tourism in Missouri.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, our state will still have the lowest permit fee. Missouri permits will still be half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of this comment.

**COMMENT:** Mark Gardner, CO, indicated his opinion that permit fee increases are unnecessary and the department should be able to operate within its current funding levels.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.560 Nonresident Archer's Hunting Permit  
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019

(44 MoReg 1849-1850). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from eighteen (18) individuals on the proposed amendment.

**COMMENTS:** Glen Amundsen, Jasper; Frank Dunkel, FL; Bob Brown, Carthage; Patrick Cebuhar, Cuba; Kyle (no last name), location unknown; Lloyd Brotherton, Kahoka, and Andrew Milanowski, MI, expressed general support for the proposed increase to fees associated with nonresident archer's hunting permits. Of those, Fred Dunkel, Bob Brown, Kyle (no last name), and Lloyd Brotherton suggested larger increases or implementation of a reciprocal fee system based on prices for similar permits in respective states of residence. **RESPONSE:** The commission thanks those individuals who voiced support for the regulation changes. No changes to the rule have been made as a result of these comments.

**COMMENTS:** John Culbertson, Sikeston; Robin Garkie, Quincy; Mark Gardner, CO; Urie Gingerich, Mountain Grove; Russell Semple, PA; Marlin Hartman, Dent Co.; Doug Enyart, Piedmont; John Bill, New Cambria; Mark Danz, IA; Robert Maley, location unknown, and Brian Hollis, West Plains, submitted comments in opposition to a proposed increase to fees associated with nonresident archer's hunting permits. **RESPONSE:** To the extent there were specific comments provided, the commission has addressed them below.

**COMMENTS:** Mark Gardner, CO, and Doug Enyart, Piedmont, expressed opposition to using the Consumer Price Index as the basis for fee increases.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of these comments.

**COMMENTS:** Mark Gardner, CO, and Mark Danz, IA, indicated that they and other nonresidents will no longer travel to their home state of Missouri to hunt due to the increased permit fees.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, our state will still have the lowest permit fee as we include two (2) deer, two (2) turkey, small-game during the prescribed season, and the ability to sell furbearers taken by hunting. Missouri's permit will still be half (1/2) that of Iowa. Thus, per-

mit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

**COMMENTS:** Mark Gardner, CO; Russell Scot Semple, PA; John Bill, New Cambria; Doug Enyart, Piedmont, and Robert Maley, location unknown, voiced concern that any increase in nonresident permit fees will decrease tourism in Missouri.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, our state will still have the lowest permit fee as we include two (2) deer, two (2) turkey, small-game during prescribed season, and the ability to sell furbearers taken by hunting. Missouri permits will still be half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

**COMMENT:** Robin Garkie, IL, indicated the proposed fee increase is unfair to nonresident landowners with smaller acreages that will not qualify for reduced-cost nonresident landowner permits.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. Creation of a Nonresident Landowners Archer's Hunting Permit for nonresident landowners with seventy-five (75) acres or more is a balanced response to nonresident hunters who own land and residents who desire nonresident permit fees were higher. Nonresident landowners can and do provide sales tax revenue to the state of Missouri when they enter Missouri to hunt on their property, albeit not as much as residents. The creation of a Nonresident Landowners Archer's Hunting Permit in conjunction with an increased fee for the Nonresident Archer's Hunting Permit is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of this comment.

**COMMENT:** Marlin Hartman, Dent Co., voiced concern that higher permit fees will result in unwanted increases in the deer population.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. As compared to Missouri's bordering states, our state will still have the lowest permit fee as we include two (2) deer, two (2) turkey, small-game during prescribed season, and the ability to sell furbearers taken by hunting. Missouri permits will still be half (1/2) that of Iowa. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. The department does not expect an increase in deer populations as a result of reduced nonresident participation in the archery deer season. No changes to the rule have been made as a result of this comment.

**COMMENT:** Mark Gardner, CO, indicated his opinion that permit fee increases are unnecessary and the department should be able to operate within its current funding levels.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing

each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.565 Nonresident Turkey Hunting Permits is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1851-1852). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from twenty-two (22) individuals on the proposed amendment.

**COMMENTS:** Bob Brown, Carthage; Glen Amundsen, Jasper; James Wilkerson, Buffalo; Jared Costephens, location unknown; Jason Crouch, Bradleyville; Ken Kelley, St. Charles; Lloyd Brotherton, Kahoka, and Martin (no last name), New Franklin, expressed general support for the proposed increase to fees associated with nonresident turkey hunting permits. Of those, Bob Brown, James Wilkerson, and Martin (no last name) voiced support for larger permit fee increases.

**RESPONSE:** The commission thanks those individuals who voiced support for the regulation changes. No changes to the rule have been made as a result of these comments.

**COMMENTS:** John Culbertson, Sikeston; Alan Vickery, AR; Andrew Diodati, AZ; Doug Enyart, Piedmont; Frank and Nora Smith, Birch Tree; Greg Vickery, AR; John Armstrong, CO; Keith Foote, TN; Kirk Cavanaugh, Homer Glen; Mark Danz, IA; Mark Gardner, CO; Robert Maley, location unknown, and Ronald Ralph, PA, submitted comments in opposition to a proposed increase to fees associated with nonresident turkey hunting permits.

**RESPONSE:** To the extent there were specific comments provided, the commission has addressed them below.

**COMMENTS:** Mark Gardner, CO, and Doug Enyart, Piedmont, expressed opposition to using the Consumer Price Index as the basis for fee increases.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing

each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of these comments.

**COMMENTS:** Mark Gardner, CO, and Mark Danz, IA, indicated that they and other nonresidents will no longer travel to their home state of Missouri to hunt due to the increased permit fees.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. With the permit fee increase, Missouri is still comparable to other bordering states in the Midwest for turkey permit prices. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

**COMMENTS:** Andrew Diodati, AZ; Mark Gardner, CO; Fred and Nora Smith, Birch Tree; Doug Enyart, Piedmont, and Robert Maley, location unknown, voiced concern that any increase in nonresident permit fees will decrease tourism in Missouri.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. With the permit fee increase, Missouri is still comparable to other bordering states in the Midwest for turkey permit prices. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

**COMMENTS:** Andrew Diodati, AZ; Greg Vickery, AR; John Armstrong, CO; Keith Foote, TN, and Ronald Ralph, PA, indicated their opinion that Missouri's current nonresident turkey hunting permit fee is too high.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. Nonresident permit fees are a balance between providing affordable hunting and fishing opportunities for nonresidents and the desires of residents that say those fees are not high enough. With the permit fee increase, Missouri is still comparable to other bordering states in the Midwest for turkey permit prices. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

**COMMENT:** Mark Gardner, CO, indicated his opinion that permit fee increases are unnecessary and the department should be able to operate within its current funding levels.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars

(\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.567 Nonresident Conservation Order Permit  
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1853-1854). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from two (2) individuals on the proposed amendment.

**COMMENT:** Lloyd Brotherton, Kahoka, expressed general support for the proposed increase to fees associated with nonresident conservation order permits; however, he feels the prices could be raised higher.

**RESPONSE:** The commission thanks those individuals who voiced support for the regulation changes. No changes to the rule have been made as a result of this comment.

**COMMENT:** Mark Gardner, CO, expressed opposition the proposed increase in fees associated with nonresident conservation order permits, does not support use of the Consumer Price Index as the basis for fee increases, believes that nonresidents will no longer travel to their home state of Missouri to hunt, and voiced concern that an increase in nonresident permit fees will result in fewer nonresidents traveling to Missouri and a decrease in tourism.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and

utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices.

With a modest seven dollar (\$7) permit fee increase, Missouri is still comparable to other bordering states in the Midwest for permit prices. Thus, permit fee increases should not be a barrier for hunters to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

**COMMENT:** Mark Gardner, CO, indicated his opinion that permit fee increases are unnecessary and the department should be able to operate within its current funding levels.

**RESPONSE:** Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-5.570 Nonresident Furbearer Hunting and Trapping  
Permit is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1855-1856). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from three (3) individuals on the proposed amendment.

**COMMENTS:** Mark Gardner, CO; Doug Enyart, Piedmont, and Mark Danz, IA, submitted comments in opposition to a proposed increase to fees associated with nonresident furbearer hunting and trapping permits.

**RESPONSE:** To the extent there were specific comments provided, the commission has addressed them below.

**COMMENTS:** Mark Gardner, CO, and Doug Enyart, Piedmont, expressed opposition to using the Consumer Price Index as the basis



for fee increases.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017.

The commission needs a consistent and meaningful formula to use to adjust the price of a permit. The Consumer Price Index is a widely used economic statistic and commonly used as the basis of making adjustments to everything from salaries to contract terms and prices. No changes to the rule have been made as a result of these comments.

COMMENT: Mark Gardner, CO, indicated that he and other nonresidents will no longer travel to their home state of Missouri to hunt due to the increased permit fees.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. With the permit fee increase, Missouri is still comparable to other bordering states in the Midwest for nonresident furbearer and trapping permit prices. Some states have these as two (2) separate permits. Thus, permit fee increases should not be a barrier for hunters and trappers to enjoy Missouri's natural resources. No changes to the rule have been made as a result of this comment.

COMMENTS: Mark Gardner, CO, and Doug Enyart, Piedmont, voiced concern that an increase in nonresident permit fees will decrease tourism in Missouri.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. With the permit fee increase, Missouri is still comparable to other bordering states in the Midwest for nonresident furbearer and trapping permit prices. Some states have these as two (2) separate permits. Thus, permit fee increases should not be a barrier for hunters and trappers to enjoy Missouri's natural resources. No changes to the rule have been made as a result of these comments.

COMMENT: Mark Danz, IA, indicated that higher nonresident permit fees will affect important traditions for those who come back to Missouri to hunt on family farms.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. With the permit fee increase, Missouri is still comparable to other bordering states in the Midwest for nonresident furbearer and trapping permit prices. Some states have these as two (2) separate permits. Thus, permit fee increases should not be a barrier for hunters and trappers to enjoy Missouri's natural resources. No changes to the rule have been made as a result of this comment.

COMMENT: Mark Gardner, CO, indicated his opinion that permit

fee increases are unnecessary and the department should be able to operate within its current funding levels.

RESPONSE: Permit prices have not kept pace with inflation and the majority of permit prices have not been changed since 1999. Adjustments are needed to help keep up with increasing costs of providing conservation work and services around the state. For example, in 2003, it cost the department one hundred dollars (\$100) per acre to plant sunflowers for dove field management. In 2017, with increased cost in seed and herbicide, it cost two hundred fifty dollars (\$250) to plant an acre of sunflowers. The department releases about one point seven (1.7) million trout around the state for public fishing each year. The department stocks the trout at the four (4) very popular daily trout parks, in more than one hundred fifty (150) miles of cold-water trout streams, at Lake Taneycomo, and at numerous lakes around the state as part of its winter trout-fishing program. The winter trout-fishing program started in 1989 in St. Louis and has been expanded to thirty-five (35) lakes in communities across the state. The price per fish to raise in a hatchery (only fish food, labor, and utilities), however, has risen from one dollar and six cents (\$1.06) in 1999 to one dollar and seventy-two cents (\$1.72) in 2017. No changes to the rule have been made as a result of this comment.

### Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

#### ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission adopts a rule as follows:

#### 3 CSR 10-5.576 Nonresident Landowner Firearms Any-Deer Hunting Permit is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1857-1858) and revised fiscal notes were published in the *Missouri Register* on July 15, 2019 (44 MoReg 2037-2039). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from thirty (30) individuals on the proposed rule.

COMMENTS: Alan Steinert, TX; Boyce Wooley, Dexter; Josh Dixon, Parkville; Kelly Hutchison, Arlington Heights; Kenneth Bostick, FL; Kevin Browne, IN; Kurt Keeney, AL; Michael Stanfill, IL; Mike Arbanas, KS; Orville Tull, St. Louis; Randy Scheel, IA; Raymond Robinson, IA; Richard Skiles, CO; Robin Garkie, IL; Tim Schmitt, IL; Tom Bartik, IL, and Travis Franklin, IL, expressed support for the proposal to offer reduced-cost firearms any-deer hunting permits for nonresident landowners with seventy-five (75) or more contiguous acres in Missouri.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes.

COMMENTS: Bernard Muenzer, St. Louis; Perry Lynn McGhee, KS; Brian Endicott, location unknown; Cecil Higgins, Hermitage; Jeffrey Wilcox, Columbia; Charles (no last name), location unknown; John Bishop, Maryville; Frank and Nora Smith, Birch Tree; Kelly Hutchison, Arlington Heights; Lloyd Brotherton, Kahoka; Michael Montgomery, Greenville, and William Grabb, Grant City, expressed general opposition to the proposed rule.

RESPONSE: To the extent there were specific comments provided, the commission has addressed them below.

COMMENT: Kelly Hutchison, Arlington Heights, expressed general opposition to the proposal but specific comments were in support of the changes. Ms. Hutchison suggested changes to privileges afforded to nonresident managers and majority owners of Missouri LLPs and LLCs.

RESPONSE: The commission recently reconciled definitions of corporations within the *Wildlife Code* to model state statutes and definitions. The department is in the process of reviewing definitions for Missouri LLPs and LLCs. No changes to the rule have been made as a result of this comment.

COMMENTS: Bernard Muenzer, St. Louis, and Michael Montgomery, Greenville, expressed opposition to the proposal, stating that all Missouri landowners should have the same rights, regardless of their state of residence.

RESPONSE: Creation of a Nonresident Landowner Firearms Any-Deer Hunting Permit is a balanced response to nonresident hunters who own land in Missouri and residents who desire nonresident permit fees were higher. Nonresident landowners do provide sales tax revenue to the state when they come to hunt on their property but not to the same extent as residents. This reduced-cost permit recognizes those contributions. No changes to the rule have been made as a result of these comments.

COMMENTS: Michael Montgomery, Greenville, and Perry Lynn McGhee, KS, expressed opposition to the proposal, stating that the permit fee is too high.

RESPONSE: Creation of a Nonresident Landowner Firearms Any-Deer Hunting Permit is a balanced response to nonresident hunters who own land in the state and residents who desire nonresident permit fees were higher. Nonresident landowners can and do provide sales tax revenue to the state when they come to hunt on their property, albeit not as much as residents. The fee for the new Nonresident Landowner Firearms Any-Deer Hunting Permit is seventy dollars (\$70) less than the proposed fee for the Nonresident Firearms Any-Deer Hunting Permit. Creation of a Nonresident Landowner Firearms Any-Deer Hunting Permit in conjunction with an increased fee for the Nonresident Firearms Any-Deer Hunting Permit is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of these comments.

COMMENTS: Frank and Nora Smith, Birch Tree; Brian Endicott, location unknown; Cecil Higgins, Hermitage; John Bishop, Maryville, and William Grabb, Grant City, expressed opposition to the proposal, stating that the proposal is unfair to Missouri residents, nonresident landowners should not be given special treatment, and nonresidents who can afford land in the state can afford to purchase permits.

RESPONSE: Creation of a Nonresident Landowner Firearms Any-Deer Hunting Permit is a balanced response to nonresident hunters who own land in the state and residents who desire nonresident permit fees to be higher. Nonresident landowners can and do provide sales tax revenue to the state when they come to hunt on their property, albeit not as much as residents. Creation of a Nonresident Landowner Firearms Any-Deer Hunting Permit in conjunction with an increased fee for the Nonresident Firearms Any-Deer Hunting Permit is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of these comments.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sec-

tions 40 and 45 of Art. IV, Mo. Const., the commission adopts a rule as follows:

**3 CSR 10-5.579 Nonresident Landowner Firearms Turkey Hunting Permits is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1859-1860) and revised fiscal notes were published in the *Missouri Register* on July 15, 2019 (44 MoReg 2040-2042). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from nine (9) individuals on the proposed rule.

COMMENTS: Tom Lonf, Stockton; Kenneth Bostick, FL; Kurt Keeney, AL, and Mike Arbanas, KS, expressed support for the proposal to offer reduced-cost firearms turkey hunting permits for nonresident landowners with seventy-five (75) or more contiguous acres in Missouri.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes.

COMMENTS: Lloyd Brotherton, Kahoka; Frank and Nora Smith, Birch Tree; Cecil Higgins, Hermitage, and Michael Montgomery, Greenville, expressed general opposition to the proposal.

RESPONSE: To the extent there were specific comments provided, the commission has addressed them below.

COMMENTS: Frank and Nora Smith, Birch Tree, expressed opposition to the proposal, stating that the proposal would not be fair to Missouri residents and that nonresidents who can afford land in the state can afford to purchase permits.

RESPONSE: Creation of Nonresident Landowner Turkey Hunting Permits is a balanced response to nonresident hunters who own land in Missouri and residents who desire nonresident permit fees to be higher. Nonresident landowners can and do provide sales tax revenue to the state when they come to hunt on their property, albeit not as much as residents. Creation of Nonresident Landowner Turkey Hunting Permits in conjunction with an increased fee for Nonresident Turkey Hunting Permits is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of these comments.

COMMENT: Cecil Higgins, Hermitage, indicated that nonresident landowners should not receive special treatment.

RESPONSE: Creation of Nonresident Landowner Turkey Hunting Permits is a balanced response to nonresident hunters who own land in Missouri and residents who desire nonresident permit fees to be higher. Nonresident landowners can and do provide sales tax revenue to the state when come to hunt on their property, albeit not as much as residents. Creation of Nonresident Landowner Turkey Hunting Permits in conjunction with an increased fee for Nonresident Turkey Hunting Permits is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of this comment.

COMMENT: Michael Montgomery, Greenville, indicated that all nonresident landowners should pay a minimal amount for permits to hunt on their property.

RESPONSE: Creation of Nonresident Landowner Turkey Hunting Permits is a balanced response to nonresident hunters who own land in Missouri and residents who desire nonresident permit fees to be higher. Nonresident landowners can and do provide sales tax revenue to the state when they come to hunt on their property, albeit not as much as residents. The creation of Nonresident Landowner Turkey

Hunting Permits in conjunction with an increased fee for Nonresident Turkey Hunting Permits is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission adopts a rule as follows:

**3 CSR 10-5.580 Nonresident Landowner Archer's Hunting Permit is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1861-1862) and revised fiscal notes were published in the *Missouri Register* on July 15, 2019 (44 MoReg 2043-2045). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective **February 29, 2020**.

**SUMMARY OF COMMENTS:** The Conservation Commission received comments from ten (10) individuals on the proposed rule.

**COMMENTS:** Richard Skiles, CO; Andrew Milanowski, MI; Kenneth Bostick, FL, and Charles Haren, KS, expressed support for the proposal to offer reduced-cost archer's hunting permits for nonresident landowners with seventy-five (75) or more contiguous acres in Missouri.

**RESPONSE:** The commission thanks those individuals who voiced support for the regulation changes.

**COMMENTS:** Lisa (no last name), El Dorado Springs; Cecil Higgins, Hermitage; Michael Montgomery, Greenville; Frank and Nora Smith, Birch Tree, and Lloyd Brotherton, Kahoka, expressed general opposition to the proposal.

**RESPONSE:** To the extent there were specific comments provided, the commission has addressed them below.

**COMMENTS:** Frank and Nora Smith, Birch Tree, and Cecil Higgins, Hermitage, indicated that the proposal would not be fair to Missouri residents, nonresident landowners should not get special treatment, and nonresidents who can afford land in the state can afford to purchase permits.

**RESPONSE:** Creation of a Nonresident Landowner Archer's Hunting Permit is a balanced response to nonresident hunters who own land in Missouri and residents who desire nonresident permit fees to be higher. Nonresident landowners can and do provide sales tax revenue to the state when they come to hunt on their property, albeit not as much as residents. The creation of a Nonresident Landowner Archer's Hunting Permit in conjunction with an increased fee for the Nonresident Archer's Hunting Permit is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of these comments.

**COMMENT:** Lisa (no last name), El Dorado Springs, opposes the proposal because reduced-cost permits are not offered for Missouri residents who own property in other states.

**RESPONSE:** The commission acknowledges that other states do not offer reduced-cost permits to Missouri residents who own property in those states. However, creation of a Nonresident Landowner Archer's Hunting Permit in conjunction with an increased fee for the

Nonresident Archer's Hunting Permit is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of this comment.

**COMMENTS:** Michael Montgomery, Greenville, and Richard Skiles, CO, indicated that nonresident landowners should pay a minimal amount for permits to hunt on their property and the proposed fee for this permit is too high.

**RESPONSE:** Creation of a Nonresident Landowner Archer's Hunting Permit is a balanced response to nonresident hunters who own land in Missouri and residents who desire nonresident permit fees to be higher. Nonresident landowners can and do provide sales tax revenue to the state when they come to hunt on their property, albeit not as much as residents. The creation of a Nonresident Landowner Archer's Hunting Permit in conjunction with an increased fee for the Nonresident Archer's Hunting Permit is meant to strike balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of these comments.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**ORDER OF RULEMAKING**

By authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-6.405 is amended.**

This rule establishes season dates and limits for certain fish and is exempted by sections 536.021, RSMo 2016 from the requirements for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-6.405 General Provisions by establishing possession limits for fish taken from waters of the state.

**3 CSR 10-6.405 General Provisions**

**(3) Limits and Possession.**

(F) A person may possess no more than two (2) statewide daily limits as prescribed in 3 CSR 10-6.505 through 3 CSR 10-6.620, except:

1. A person may possess no more than ten (10) trout.

**SUMMARY OF PUBLIC COMMENTS:** Seasons and limits are exempted from the requirement of filing as a proposed amendment under section 536.021, RSMo 2016.

This amendment was filed October 11, 2019, becomes effective **February 29, 2020**.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**ORDER OF RULEMAKING**

By authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-6.535 is amended.

This rule establishes season dates and limits for certain fish and is exempted by sections 536.021, RSMo 2016 from the requirements for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-6.535 Trout by establishing daily limits for fish taken from waters of the state.

### 3 CSR 10-6.535 Trout

(1) Daily Limit: Four (4) trout in the aggregate, except:

(E) From March 1 through October 31, the daily limit is five (5) trout in the aggregate at Maramec Spring Park.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are exempted from the requirement of filing as a proposed amendment under section 536.021, RSMo 2016.

This amendment was filed October 11, 2019, becomes effective **February 29, 2020**.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 10—Wildlife Code: Commercial Permits:  
Seasons, Methods, Limits**

#### ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-10.744 Commercial Deer Processing: Permit, Privileges, Requirements is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1863-1864). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from three (3) individuals on the proposed amendment.

COMMENTS: Michael Kozlowski, St. Charles; Lloyd Brotherton, Kahoka, and Kerry Scoles, Labadie, expressed general support for the proposal to establish a requirement for commercial processors to dispose of unused cervid parts in a sanitary landfill or transfer station and clarifies record retention requirements.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 10—Wildlife Code: Commercial Permits:  
Seasons, Methods, Limits**

#### ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

**3 CSR 10-10.767 Taxidermy; Tanning: Permit, Privileges, Requirements is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1865-1866). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from two (2) individuals on the proposed amendment.

COMMENT: Lloyd Brotherton, Kahoka, expressed general support for the proposal to establish a requirement for licensed taxidermists and tanners to dispose of unused cervid parts in a sanitary landfill or transfer station and clarify record retention requirements.

RESPONSE: The commission thanks Mr. Brotherton for his support for the regulation changes.

COMMENT: Jason Crouch, Bradleyville, expressed opposition to the proposed changes, stating that burying or burning waste should be sufficient. Mr. Crouch indicated that this requirement will result in higher costs to hunters for taxidermy services.

RESPONSE: With the finding of Chronic Wasting Disease (CWD) in Missouri, it is important to prevent the further spread of the disease by the movement of potentially-infected carcasses. Prions, the infective agent of CWD, do not degrade on the land and cannot be burned; therefore, proper disposal is necessary to stop human-assisted disease spread. Requiring the use of a sanitary landfill allows movement of carcasses and carcass parts within the state while still allowing the Department of Conservation (department) to meet disease management goals. It is important to prevent the further spread of the disease and minimize risk by limiting the role carcasses play in disease spread. In a department survey of hunters, they indicated that only about one third (1/3) bring their harvested deer to a processor. In a 2017 direct contact survey of processors and taxidermists, about sixty-nine percent (69%) already used a landfill service to dispose of carcass parts. In a 2019 follow-up with the thirty-one percent (31%) of respondents not using landfill services, forty percent (40%) of those commercial entities had already started using landfill services. The department concludes that the majority of commercial processors and taxidermists now utilize landfill services. The importance of this rule is to address those entities that do not currently use landfill services, albeit a smaller proportion than those that already do. No changes to the rule have been made as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

#### ORDER OF RULEMAKING

By authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.150 is amended.

This rule establishes season dates and limits for certain fish and is exempted by sections 536.021, RSMo from the requirements for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-12.150 Fishing, Trout Parks by establishing daily limits for fish taken from waters of the state.

**3 CSR 10-12.150 Fishing, Trout Parks**

(1) On Maramec Spring Park, Bennett Spring State Park, Montauk State Park, and Roaring River State Park—

(B) Trout fishing is permitted from March 1 through October 31. The daily limit at Bennett Spring State Park, Montauk State Park, and Roaring River State Park is four (4) trout, and no person shall continue to fish for any species after having four (4) trout in possession. The daily limit at Maramec Spring Park is five (5) trout, and no person shall continue to fish for any species after having five (5) trout in possession. Fishing in the designated trout waters is permitted only by holders of a signed valid area daily trout fishing tag, except that fishing is permitted by holders of either a valid signed daily tag or a valid trout permit from the first bridge below the old dam in Zone 3 at Roaring River State Park to the downstream park boundary.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are exempted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment was filed October 11, 2019, becomes effective **February 29, 2020**.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 20—Wildlife Code: Definitions**

**ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-20.805 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2019 (44 MoReg 1867-1871). Those sections with changes are reprinted here. This proposed amendment becomes effective **February 29, 2020**.

SUMMARY OF COMMENTS: The Conservation Commission received comments from one hundred fifty-seven (157) individuals on the proposed amendment. A spreadsheet detailing comments received is available upon written request to the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180.

COMMENTS: Bob Schmiedeskamp, Rolla; Dewayne Wood, Dearborn; Harlen Hartsfield, California; John (no last name), location unknown; John Strange, Troy; Keith Voss, location unknown; Kerry Scoles, Labadie; Larry Rodgers, Rolla; Lloyd Brotherton, Kahoka; Michael Blaine, Baring; Phil Needham, location unknown, and Thomas Nations, Perryville, expressed general support for the proposed changes to this rule. Of those, Bob Schmiedeskamp and Michael Blaine indicated support for setting the acreage requirement higher than the proposed twenty (20) acre threshold.

RESPONSE: The commission thanks those individuals who voiced support for the regulation changes.

COMMENTS: One hundred forty-five (145) individuals submitted comments in opposition to the proposed changes to the rule; specifically, the proposal to offer special privileges for nonresident landowners and the increase to the acreage requirement that establishes eligibility for no-cost landowner hunting privileges.

RESPONSE: To the extent there were specific comments provided, the commission has addressed them below.

COMMENTS: Lloyd Brotherton, Kahoka; Kerry Scoles, Labadie;

John Bishop, Maryville; Jeffrey Wilcox, Columbia; Greg Chambers, Helena, and Charles (no last name), location unknown, expressed opposition to a proposal to offer any special privileges for nonresident landowners.

RESPONSE: Creation of a nonresident landowner definition allows the commission to balance the desires of nonresident hunters who own land in Missouri and residents who desire nonresident permit fees to be higher. Nonresident landowners can and do provide sales tax revenue to the state when they come to hunt on their property, albeit not as much as residents. Creation of a nonresident landowner definition and associated reduced-cost hunting permits in conjunction with an increased fee for the nonresident hunting and fishing permits is meant to strike a balance between the desires of residents, nonresidents, and nonresident landowners. No changes to the rule have been made as a result of these comments.

COMMENTS: Alan Angiocci, St. Charles, and Martin Jones, Wildwood, expressed general opposition to the proposed changes; however, their specific comments pertained to the definition of lures contained in this rule.

RESPONSE: The commission appreciates citizen input on all regulations. No changes to the rule have been made as a result of this comment.

COMMENTS: Frank Dunkel, FL; Irelan White, High Hill, and Linda Poe, Marquand, expressed general opposition to the proposed changes; however, their comments indicated support for increasing the acreage threshold to something larger than the proposed twenty (20) acres.

RESPONSE: Wildlife habitat provided at larger acreages does have more impact on, deer and turkey populations. The recommended acreage of this rule was a balance of an understanding for a needed change and what citizens felt was a reasonable acreage to receive no-cost hunting privileges. In March 2019, more than fourteen thousand (14,000) citizens of Missouri provided comment with an average response of twenty-one (21) acres as a reasonable acreage to receive no-cost hunting privileges. No changes to the rule have been made as a result of this comment.

COMMENTS: Christina Mullanack, location unknown; Cliff Lackland, Fayette; Cody Pemberton, Sunrise Beach; Darrel Bates, Jefferson City; David Stevenson, Ashland; Dennis Russell, Greenfield; Donald Morgan, location unknown; Erik (no last name), location unknown; Gregory Wehner, Ste. Genevieve; Holli Ranck, location unknown; Jeffrey Puckett, Greenfield; John Howard, Warrenton; Lisa Krieg, Freeburg; Richard Deihl, Kingsville; Stan Cleveland, Lee's Summit; Thomas McCoy, Sullivan; Vanessa Ragsdale, Marshfield, expressed opposition to the change; however, they acknowledged that the current five (5) acre threshold is too small and indicated support of an increase to ten (10) or fifteen (15) acres.

RESPONSE: Many public comments received as a part of the 2008 permit review acknowledged five (5) acres is too small to justify "no-cost" permits. In March 2019, over fourteen thousand (14,000) individuals provided input regarding no-cost hunting privileges with an overall average of twenty-one (21) acres identified as a reasonable threshold to receive no-cost landowner hunting privileges. No changes to the rule have been made as a result of this comment.

COMMENTS: Amaryah Bennett, location unknown; Anthony Roe, Billings; Anthony Schmeltz, Villa Ridge; Brian Endicott, location unknown; Brian Carter, St. Louis; David Cordes, Sedalia; Don Wood, Billings; Frank and Nora Smith, Birch Tree; James Ortmeyer, Jefferson City; Jason Wolthuis, Hartville; Jerry Schwach, Clinton; John Covert, Jr., Lee's Summit; Mark Leonard, Bates City; Orville Tull, St. Louis; Ryan Steinhaus, location unknown; Timmy Callaway, Kearney, and Timothy Faber, Laurie, indicated that the proposed removal of landowner privileges will infringe on their rights as landowners.

RESPONSE: The modification to the minimum acreage requirement to qualify for no-cost privileges will not infringe on the rights of landowners. Those individuals will still have the opportunity to hunt on their own property regardless of property size; however, those with less than twenty (20) acres will no longer be eligible for no-cost deer and turkey hunting privileges. No changes to the rule have been made as a result of this comment.

COMMENTS: Anthony Schmeltz, Villa Ridge; Ashley Mareschal, Warrenton; Diana Cordell, Harrisonville; Edward Taylor, Ste. Genevieve; Gary Hastings, Bronaugh; Gilbert Lawson, location unknown; Greg Chambers, Helena; Greg Mann, Revere; Harry McGill, Warrenton; Holli Ranck, location unknown; Jackie Blurton, Winona; Jim Shelton, Sullivan; John Bishop, Maryville; Joshua Roller, Fillmore; Lester Rogers, Billings; Mark Leonard, Bates City; Mark Rosser, Milo; Matt Glaus, location unknown; Matthew Weldon, Arnold; Michael Schorpp, Belle; Rebekah Wolthuis, Huggins; Richard (no last name), location unknown, and Russell Riddle, Bloomfield, indicated that the changes are unfair to landowners of smaller acreages and discriminates against lower-income individuals.

RESPONSE: Landowners will still have the opportunity to hunt on their own property; however, landowners with less than twenty (20) acres will no longer be eligible for no-cost deer and turkey hunting permits. The commission has offered no-cost hunting privileges to resident landowners since the inception of the “modern” firearms deer hunting season in 1944. The primary rationale for offering these privileges has been that private landowners, as defined in the *Wildlife Code*, provide space and resources for wildlife. In the early years, it was also hoped that these privileges would serve as an incentive to landowners; if they could hunt on their land for free, perhaps they would also invest in creating wildlife habitat. Over the years, no-cost deer and turkey hunting privileges have been promoted by the commission as a type of landowner recognition for contributions of habitat. The commission has consistently adhered to this rationale over time, although the definition of “landowner” and privileges offered have changed periodically in response to changing deer populations, land ownership patterns, and social considerations. Land use patterns and deer and turkey populations have changed significantly from those existing when free landowner privileges were established with the intent to impact, deer and turkey, and to recognize the landowners with acreages large enough provide for the habitat needs of deer and turkey. As an example, when it comes to deer and turkey, a five (5) acre threshold is not a meaningful acreage requirement and does not reflect their habitat needs. Essentially, a healthy deer density in Missouri equates to about one (1) deer for every twenty (20) to twenty-five (25) acres. No changes to the rule have been made as a result of this comment.

COMMENTS: Amaryah Bennett, location unknown; Belinda Mincher, West Plains; Cecil Higgins, Hermitage; Dan McAdoo, Buffalo; David Cordes, Sedalia; David Stevenson, Ashland; Dwain Carter, Couch; James Godfrey, Hermitage; Jim Shelton, Sullivan; John Covert, Jr., Lee’s Summit; Orville Tull, St. Louis; Richard Deihl, Kingsville; Robert Boone, Buffalo; Thomas McCoy, Sullivan, and Mr. & Mrs. Tom Fischer, Camdenton, indicated that they and others hunt primarily for food and this change will negatively impact them financially.

RESPONSE: Landowners will still have the opportunity to hunt on their own property regardless of property size; however, landowners with less than twenty (20) acres will no longer be eligible for no-cost permits. The commission has offered no-cost hunting privileges to resident landowners since the inception of the “modern” firearms deer hunting season in 1944. The primary rationale for offering these privileges has been that private landowners, as defined in the *Wildlife Code*, provide space and resources for wildlife. In the early years, it was also hoped that these privileges would serve as an incentive to landowners; if they could hunt on their land for free, perhaps they

would also invest in creating wildlife habitat. Over the years, no-cost deer and turkey hunting privileges have been promoted by the commission as a type of landowner recognition for contributions of habitat. The commission has consistently adhered to this rationale over time, although the definition of “landowner” and privileges offered have changed periodically in response to changing deer populations, land ownership patterns, and social considerations. Land use patterns and deer and turkey populations have changed significantly from those existing when free landowner privileges were established with the intent to impact deer and turkey, and to recognize the landowners with acreages large enough to provide for the habitat needs of deer and turkey. As an example, when it comes to deer and turkey, a five (5) acre threshold is not a meaningful acreage requirement and does not reflect their habitat needs. Essentially, a healthy deer density in Missouri equates to about one (1) deer for every twenty (20) to twenty-five (25) acres. No changes to the rule have been made as a result of this comment.

COMMENTS: Christina Mullanack, location unknown; Cliff Lackland, Fayette; Diana Cordell, Harrisonville; James Ortmeier, Jefferson City; John E. Brinkmeyer, High Ridge; Orville Tull, St. Louis; Ryan Steinhaus, location unknown; Steve Sloan, Delta; Timmy Callaway, Kearney; Timothy Faber, Laurie, and William Sanders, Syracuse, indicated that hunter numbers and youth and new hunter recruitment will be negatively impacted by the changes.

RESPONSE: The commission has a strong history of evaluating options to improve hunter recruitment, retention, and reactivation (R3); for example, implementation of youth seasons and the allowance of crossbows during archery season for all hunters. Nationwide surveys looking into hunting R3 often cite time availability and a place to hunt as the main issues for individuals not getting into hunting or continuing to hunt. Youth hunting permits are half the price of adult permits; for example, the youth cost for the Resident Archer’s Hunting Permit (allows for 2 deer, 2 turkey, small-game during prescribed season, and to sell furbearers taken by hunting) is nine dollars and fifty cents (\$9.50). No changes to the rule have been made as a result of this comment.

COMMENTS: Dale Perstrop, Barnhart; Jeffrey Willcox, Columbia; Joe Wright, West Plains; John Brinkmeyer, High Ridge; John Wansing, Wardsville; Lisa Krieg, Freeburg; Marvin Bodine, Springfield; Richard (no last name), Marble Hill; Timothy Faber, Laurie, Tom Gross, location unknown; and Zelma Taylor, Poplar Bluff, indicated that the changes will lead to unwanted increases in the deer population and result in increased deer damage and the spread and prevalence of chronic wasting disease in the state.

RESPONSE: Landowners will still have the opportunity to hunt on their own property; however, landowners with less than twenty (20) acres; however, landowners with less than twenty (20) acres will no longer be eligible for no-cost permits. Land use patterns and deer populations have changed significantly from those existing when free landowner privileges were established with the intent to impact deer and turkey, and to recognize the landowners with acreages large enough to provide for the habitat needs of deer and turkey. As an example, when it comes to deer and turkey, a five (5) acre threshold is not a meaningful acreage requirement and does not reflect their habitat needs. Essentially, a healthy deer density in Missouri equates to about one (1) deer for every twenty (20) to twenty-five (25) acres. No changes to the rule have been made as a result of this comment.

COMMENTS: Daniel Wenzel, Lone Jack; Greg Chambers, Helena; Gregory Wehner, Ste. Genevieve; Kerry Scoles, Labadie; Mark Staufenbiel, Arnold, and Timothy Faber, Laurie, requested that the rule be modified to waive the requirement (grandfather) for existing landowners of less than twenty (20) acres.

RESPONSE: If the commission were to waive the requirement for these landowners it would set a precedent that we would likely be asked to grandfather in everyone for any change to the *Wildlife Code*.

This would set an unreasonable expectation for the citizens of Missouri and result in enforcement issues. No changes to the rule have been made as a result of this comment.

COMMENTS: Gary Hastings, Bronaugh; Harry Magill, Warrenton; Mark Staufenbiel, Arnold, and Mark Glaus, location unknown, voiced support for eliminating no-cost landowner privileges for all landowners, not just those with smaller acreages.

RESPONSE: The commission has offered no-cost hunting privileges to resident landowners since the inception of the “modern” firearms deer hunting season in 1944. The primary rationale for offering these privileges has been that private landowners, as defined in the *Wildlife Code*, provide space and resources for wildlife. In the early years, it was also hoped that these privileges would serve as an incentive to landowners; if they could hunt on their land for free, perhaps they would also invest in creating wildlife habitat. Over the years, no-cost deer and turkey hunting privileges have been promoted as a type of landowner recognition for contributions of habitat. The commission has consistently adhered to this rationale over time, although the definition of “landowner” and privileges offered have changed periodically in response to changing deer and turkey populations, land ownership patterns, and social considerations. Land use patterns and deer and turkey populations have changed significantly from those existing when free landowner privileges were established with the intent to impact deer and turkey, and to recognize the landowners with acreages large enough to impact small-game populations or provide for the habitat needs of deer and turkey. As an example, when it comes to deer and turkey, a five (5) acre threshold is not a meaningful acreage requirement and does not reflect their habitat needs. Essentially, a healthy deer density in Missouri equates to about one (1) deer for every twenty (20) to twenty-five (25) acres. The increase of the threshold to twenty (20) acres is a balanced decision with the desires of the public. In March 2019, more than fourteen thousand (14,000) comments were provided by citizens of Missouri with an average response of twenty-one (21) acres as a reasonable amount of property to receive no-cost hunting privileges. No changes to the rule have been made as a result of this comment.

COMMENTS: Charles (no last name), location unknown; Ashley Mareschal, Warrenton; David Cordes, Sedalia; Donald Laws, Birch Tree; Greg Chambers, Helena; Greg Mann, Revere; Gregory Wehner, Ste. Genevieve; James Godfrey, Hermitage; Jeremy Miles, Rolla; John Childers, location unknown; John Wansing, Wardsville; Orville Tull, St. Louis; Randall Eiler, Jr., Novinger; Robert Boone, Buffalo; Russell Abbott, Browning; Thomas McCoy, Sullivan; Timmy Callaway, Kearney; Timothy Faber, Laurie, and William Sanders, Syracuse, indicated that they purchased their property with hunting and fishing opportunities in mind and eligibility for no-cost permits played a part in those decisions for many.

RESPONSE: Landowners will still have the opportunity to hunt on their own property regardless of property size. The commission has offered no-cost hunting privileges to resident landowners since the inception of the “modern” firearms deer hunting season in 1944. The primary rationale for offering these privileges has been that private landowners, as defined in the *Wildlife Code*, provide space and resources for wildlife. In the early years, it was also hoped that these privileges would serve as an incentive to landowners; if they could hunt on their land for free, perhaps they would also invest in creating wildlife habitat. Over the years, no-cost deer and turkey hunting privileges have been promoted as a type of landowner recognition for contributions of habitat. The commission has consistently adhered to this rationale over time, although the definition of “landowner” and privileges offered have changed periodically in response to changing deer and turkey populations, land ownership patterns, and social considerations. Land use patterns and deer and turkey populations have changed significantly from those existing when free landowner privileges were established with the intent to impact deer and turkey, and to recognize the landowners with acreages large enough to provide

for the habitat needs of deer and turkey. As an example, when it comes to deer and turkey, a five (5) acre threshold is not a meaningful acreage requirement and does not reflect their habitat needs. Essentially, a healthy deer density in Missouri equates to about one (1) deer for every twenty (20) to twenty-five (25) acres. No changes to the rule have been made as a result of this comment.

COMMENTS: Anthony Roe, Billings; Charles (no last name), location unknown; Corey March, Foristell; David Cordes, Sedalia; Denise Green, Mountain Grove; John Covert, Jr., Lee’s Summit; Kenny Gann, Sparta; Mark Leonard, Bates City, and Robert Wilding, Union, indicated that they pay taxes on properties they own, elimination of no-cost hunting privileges for smaller acreages represents an additional tax on these landowners.

RESPONSE: Wildlife are state resources owned by the public and held in trust to be managed by the Department of Conservation. All citizens of Missouri contribute to the one eighth (1/8) of one percent (1%) Conservation Sales Tax regardless if they are consumptive users or not. The sales tax is used to fund conservation for all the citizens of Missouri and not just consumptive users. Permit fees are paid for the opportunity to harvest a public resource.

Landowners will still have the opportunity to hunt on their own property; however, landowners with less than twenty (20) acres; however, landowners with less than twenty (20) acres will no longer be eligible for no-cost permits. The commission has offered no-cost hunting privileges to resident landowners since the inception of the “modern” firearms deer hunting season in 1944. The primary rationale for offering these privileges has been that private landowners, as defined in the *Wildlife Code*, provide space and resources for wildlife. In the early years, it was also hoped that these privileges would serve as an incentive to landowners; if they could hunt on their land for free, perhaps they would also invest in creating wildlife habitat. Over the years, no-cost deer and turkey hunting privileges have been promoted by the commission as a type of landowner recognition for contributions of habitat. The commission has consistently adhered to this rationale over time, although the definition of “landowner” and privileges offered have changed periodically in response to changing deer and turkey populations, land ownership patterns, and social considerations. Land use patterns and deer and turkey populations have changed significantly from those existing when free landowner privileges were established with the intent to impact deer and turkey, and to recognize the landowners with acreages large enough to provide for the habitat needs of deer and turkey. As an example, when it comes to deer and turkey, a five (5) acre threshold is not a meaningful acreage requirement and does not reflect their habitat needs. Essentially, a healthy deer density in Missouri equates to about one (1) deer for every twenty (20) to twenty-five (25) acres. No changes to the rule have been made as a result of this comment.

COMMENTS: Cecil Higgins, Hermitage; Corey March, Foristell; Daniel Carter, St. Louis; Daniel Cupp, Carthage; Donald Morgan, location unknown; Dwain Carter, Couch; Greg Chambers, Helena; Jeffrey Wilcox, Columbia; Joe Wright, West Plains; John Howard, Warrenton; John Kallenbach, location unknown; John Lynn, Center; Kenny Gann, Sparta; Len Bonnot, Holts Summit; Lester Rogers, Billings; Marvin Bodine, Springfield; Richard (no last name), location unknown; Russell Noltkamper, Wright City; Thomas Maune, Washington, and Timothy Faber, Laurie, indicated their opinion that the primary purpose of this change is to provide an additional source of revenue for the commission.

RESPONSE: The commission’s main impetus for this rule is regards to the impact on deer, and turkey populations. The commission has offered no-cost hunting privileges to resident landowners since the inception of the “modern” firearms deer hunting season in 1944. The primary rationale for offering these privileges has been that private landowners, as defined in the *Wildlife Code*, provide space and resources for wildlife. In the early years, it was also hoped that these

privileges would serve as an incentive to landowners; if they could hunt on their land for free, perhaps they would also invest in creating wildlife habitat. Over the years, no-cost deer and turkey hunting privileges have been promoted by the commission as a type of landowner recognition for contributions of habitat. The commission has consistently adhered to this rationale over time, although the definition of "landowner" and privileges offered have changed periodically in response to changing deer and turkey populations, land ownership patterns, and social considerations. Land use patterns and deer and turkey populations have changed significantly from those existing when free landowner privileges were established with the intent to impact deer and turkey, and to recognize the landowners with acreages large enough to provide for the habitat needs of deer and turkey. As an example, when it comes to deer and turkey, a five (5) acre threshold is not a meaningful acreage requirement and does not reflect their habitat needs. Essentially, a healthy deer density in Missouri equates to about one (1) deer for every twenty (20) to twenty-five (25) acres.

Although not the purpose of this rule change, the commission does not deny it will impact revenue and did estimate that in the Fiscal Note that was submitted with proposed rulemaking. No changes to the rule have been made as a result of this comment.

COMMENT: Members of the Conservation Commission expressed concern that a change to the landowner definition within the *Wildlife Code* would have unintended consequences for those that wish to hunt small game, fish in waters of the state, and trap on their property.

RESPONSE AND EXPLANATION OF CHANGE: New section (52) will be changed to clarify that the twenty (20) acre threshold applies only to deer and turkey hunting permits.

### 3 CSR 10-20.805 Definitions

(52) Resident landowner: Any Missouri resident who is the owner of at least five (5) acres in one (1) contiguous tract, or any member of the immediate household whose legal residence or domicile is the same as the landowner's for at least thirty (30) days last past, except ownership of at least twenty (20) acres in one (1) contiguous tract is required to qualify for resident landowner privileges to hunt deer, elk, and turkey. In the case of corporate ownership of land, persons defined as landowners include Missouri residents who are:

*REVISED PRIVATE COST: This proposed amendment will cost private entities an estimated maximum of one million two hundred twenty-nine thousand eighty-two dollars (\$1,229,082) annually in the aggregate.*



FISCAL NOTE  
PRIVATE ENTITY COST

- I. Department Title: Department of Conservation  
Division Title: Division 10 – Conservation Commission  
Chapter Title: Chapter 20– Wildlife Code: Definitions

Rule Number and Name:	3 CSR 10-20.805 Definitions
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Up to 35,513 individuals receiving no-cost hunting privileges	Residents that received no-cost landowner hunting privileges that own property < 20 Acres	Annual-aggregate maximum estimate of \$1,229,082

III. WORKSHEET

[28,410 (firearms deer hunters) X \$17 (cost of one resident any-deer firearms hunting permit)] + [13,850 (archery deer hunters) X (\$19 (cost of one archer's hunting permit))] + [23,793 (spring turkey hunters) X (\$17 (cost of one spring turkey hunting permit))] + [6,037 (fall turkey hunters) X (\$13 (cost of one fall turkey hunting permit))] = \$1,229,082

IV. ASSUMPTIONS

Landowners with < 20 acres of property account for 19% (35,513) of the individuals that receive no-cost landowner hunting permits.

From our 2017 post-season survey of hunters having a no-cost landowner deer hunting permit, 20% of firearms permit holders did not hunt and 61% of archery permit holders did not hunt. Therefore, we estimate 28,410 (35,513 x (1-0.2)) of individuals that previously were issued a no-cost landowner firearm deer hunting permit would be impacted by this rule amendment. We also estimate that 13,850 (35,513 x (1-0.61)) of individuals that previously were issued a no-cost landowner archer's hunting permit would be impacted by this amendment.

From our 2018 post-season survey of hunters having a no-cost landowner spring turkey hunting permit, 33% of permit holders did not hunt. Therefore, we estimate 23,793 (35,513 x (1-0.33)) of individuals that previously were issued a no-cost landowner spring turkey hunting permit would be impacted by this amendment.

From our 2017 post-season survey of hunters having a no-cost landowner fall turkey hunting permit, 83% of permit holders did not hunt. Therefore, we estimate 6,037 (35,513 x (1-0.83)) of individuals that previously were issued a no-cost landowner spring turkey hunting permit would be impacted by this amendment.

Although not used in our estimate, it is prudent to note a 2016 USDA survey of Missouri production landowners/operators (claiming more than \$1,000 of agriculture product from property) with at least 5-acres of land responded with only 43% hunted deer on their property.

This maximum estimate is based on 2017 and 2018 surveys and 2008 and 2019 public input, the impact could be substantially less based upon hunting decisions made by impacted landowners.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 20—Division of Learning Services  
Chapter 100—Office of Quality Schools**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Education (board) under section 161.092, RSMo 2016, the board withdraws a proposed rule as follows:

**5 CSR 20-100.295** Missouri School Improvement Program 6 is withdrawn.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 1, 2019 (44 MoReg 2105-2114). This proposed rule is withdrawn.

**SUMMARY OF COMMENTS:** The board received one thousand four hundred and ninety-five (1,495) comments on this proposed rule. The comment period provided the basis for significant changes to the proposed rule. The comment period also provided the department with valuable insight into issues related to the Standards and Indicators.

**RESPONSE:** As a result, the board is withdrawing the proposed rule and will submit a revised proposed rule for public comment.

**Title 6—DEPARTMENT OF HIGHER EDUCATION  
AND WORKFORCE DEVELOPMENT  
Division 250—University of Missouri  
Chapter 10—Administration of Missouri Agricultural  
Liming Materials Act**

**ORDER OF RULEMAKING**

By the authority vested in the University of Missouri under section 266.520, RSMo 2016, the director amends a rule as follows:

**6 CSR 250-10.030** Inspection Fee is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2019 (44 MoReg 2365-2366). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

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

**Title 8—DEPARTMENT OF LABOR AND  
INDUSTRIAL RELATIONS  
Division 20—Labor and Industrial Relations Commission  
Chapter 5—Rules Relating to Objections to Wage Orders,  
Including Prevailing Wage Determinations and  
Occupational Title of Work Descriptions**

**ORDER OF RULEMAKING**

By the authority vested in the Labor and Industrial Relations Commission under section 286.060, RSMo 2016, the commission amends a rule as follows:

**8 CSR 20-5.010** Objections and Hearing is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16,

2019 (44 MoReg 2367-2368). 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 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 7—Core Rules for Psychiatric and Substance Use  
Disorder Treatment Programs**

**ORDER OF RULEMAKING**

By the authority vested in the Director of the Department of Mental Health under sections 630.192 and 630.193 to 630.198, RSMo 2016, Department of Mental Health amends a rule as follows:

9 CSR 10-7.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2019 (44 MoReg 2368-2371). Those sections with changes are reprinted here. The proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The department received one (1) staff comment for the proposed amendment.

**COMMENT #1:** Staff advised there is a typographical error in paragraph (2)(F)3. The word “new” should be changed to “need.”  
**RESPONSE AND EXPLANATION OF CHANGE:** The word will be corrected to “need.”

**9 CSR 10-7.060 Emergency Safety Interventions**

(2) Seclusion and Restraint. Recognizing there are times when other interventions such as de-escalation or a change in the physical environment are not successful and there is imminent danger of serious harm to the individual or others, seclusion or restraint may be necessary to ensure safety. Any emergency safety interventions used by the organization must promote the rights, dignity, and safety of individuals being served. Organizations utilizing seclusion and restraint must obtain a separate written authorization from the department, in addition to complying with all other requirements of this rule. The department may issue such authorization on a time-limited basis subject to renewal.

(F) When an individual is being secluded or restrained, trained staff shall continually observe and assess him or her to assure appropriate care and treatment including, but not limited to:

1. Attention to vital signs;
2. Need for meals and liquids;
3. Need for bathing and use of the restroom; and
4. Need for seclusion or restraint to continue.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 10—Division of Finance and Administrative  
Services  
Chapter 4—Abortions**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, Division of Finance and Administrative Services, under section 11.930, of HB 11, First Regular Session, One hundredth General Assembly, 2019, and sections 208.153, 208.201, and 660.017,

RSMo 2016, the division amends a rule as follows:

**13 CSR 10-4.010 Prohibition Against Expenditure of Appropriated Funds for Abortion Facilities is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 2, 2019 (44 MoReg 2290). 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 30—Division of Regulation and Licensure  
Chapter 30—Ambulatory Surgical Centers and Abortion Facilities**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 197.225, RSMo Supp. 2019, the department amends a rule as follows:

**19 CSR 30-30.060 Standards for the Operation of Abortion Facilities is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2019 (44 MoReg 2126–2127). 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: The Department of Health and Senior Services (DHSS) received comments from seventy-one (71) individuals on the proposed amendment. If you would like a list of individuals who submitted comments, please contact the Department of Health and Senior Services, Division of Regulation and Licensure, Dean Linneman, Division Director, PO Box 570, Jefferson City, MO 65102-0570.

COMMENT #1: Sixty-eight (68) individuals submitted the same or similar comments that requiring a pelvic examination before an abortion is medically unnecessary, does not protect patient health and safety, is invasive, unethical, and coercive, and is merely a political ploy to attempt to degrade women who seek to have an abortion and influence them to not choose to have an abortion.

RESPONSE: These comments do not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, these comments generally advocate for elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on these comments. Nevertheless, the department states that a pelvic examination is used to detect uterine position, cervical stenosis, infection, and visible lesions. The requirement of a pelvic examination before every abortion (surgically or medication-induced) has existed by administrative rule since at least 1988 as part of the mandatory health assessment that must be used to detect factors that could influence the choice of the procedure, among other things. Planned Parenthood sought waivers to this requirement as it applies to medication abortions; however, the department's administrative rules in this particular context provide limited authority to permit waivers—authority which does not include

waiving the pelvic-examination requirement. These waiver requests were also denied because, based on the department's review, the requirement to examine a patient before initiating an elective procedure was determined to constitute a component of quality patient care. Abnormalities of the uterus, including extreme flexion, are noted to be one of the situations that make abortions challenging to perform, and these may be best detected by pelvic examination. As explained in *A Clinician's Guide to Medical and Surgical Abortion*, "The cervical canal may lie at a right angle to the uterine cavity when the uterus is markedly anteфлекed or retroфлекed. Bimanual pelvic examination is superior to ultrasonography for detecting this condition." And the former Medical Director of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri David Eisenberg, MD has testified that, in his experience, patients with extremely retroverted and retroфлекed uteri are less likely to pass a pregnancy with a medication abortion, and potentially may be more uncomfortable at the time of a surgical abortion in order to adequately reach the pregnancy. The department further notes that ACOG Committee Opinion Number 754, "The Utility of and Indications for Routine Pelvic Examination," by its express terms "does not address the pelvic examination for pregnant women." Therefore, the department believes that conducting a pelvic examination before a medical or surgical abortion helps a clinician provide safe and quality care, contrary to these comments.

COMMENT #2: The Missouri Section Advisory Council of the American College of Obstetricians and Gynecologists (ACOG) commented that ACOG has expressed strong opposition to what it characterized as the State's efforts to restrict health care and to force physicians to practice outside the bounds of evidence-based medicine.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

COMMENT #3: The Missouri Section Advisory Council of ACOG commented that patient safety is of principal importance to ACOG and that there is no evidence that mandatory pelvic exams before an abortion would do anything to improve patient safety.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

COMMENT #4: The Missouri Section Advisory Council of ACOG commented that pelvic exams may be appropriate for patients with certain conditions and that ACOG recommends that pelvic examinations be performed when indicated by medical history or symptoms.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #5:** The Missouri Section Advisory Council of ACOG commented that routine pelvic exams for women seeking an abortion are unwarranted, invasive, and not supported by evidence.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #6:** The Missouri Section Advisory Council of ACOG commented that, in a situation where the health care provider has determined the procedure is appropriate and medically justified, it is of paramount importance that the decision to perform a pelvic examination be shared between the patient and their obstetrician-gynecologist or other gynecologic care provider, that state mandates on whether and when a physician must conduct a pelvic examination run counter to these principles, and that shared decision-making in health care should be between a patient and her physician, not "government bureaucrats."

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #7:** The Missouri Section Advisory Council of ACOG commented that conditioning a patient's access to abortion care on undergoing a procedure that is not medically indicated compromises the informed-consent process and patient autonomy, bring alarming ethical questions to the fore.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #8:** The Missouri Section Advisory Council of ACOG commented that subjecting women to an invasive procedure that has no medical benefit or purpose except to create unnecessary obstacles to abortion care is coercive and could put some patients at risk of unnecessary trauma.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #9:** The Missouri Section Advisory Council of ACOG

commented that it is alarming that the pelvic-examination requirement applies to medication abortions, and that many choose medication abortion precisely because they prefer to avoid an invasive procedure.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #10:** The Missouri Section Advisory Council of ACOG commented that delaying—but not avoiding—a pelvic examination falls far short of addressing its concerns with the requirement that a pelvic examination be performed before an abortion and that, ultimately, the State of Missouri is dictating medical practice without justification.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #11:** The Missouri Section Advisory Council of ACOG lastly commented that this rule is burdensome, unwarranted, misguided, does not advance the health care needs of Missouri women, and constitutes (or is a component of) political interference in the delivery of evidence-based medicine.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #12:** Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri provided introductory comments that they are high-quality providers of reproductive health care and regarding their present and future operations in Missouri, their counseling on patients' health and wellbeing, the need to respect a woman's decision whether to have an abortion, and that judgment regarding such a decision is not their place.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

COMMENT #13: Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that they are steadfastly committed to the health, safety, and dignity of their patients and that—for that reason—they oppose the requirement that a pelvic examination be performed before every abortion without regard to medical need and the patient’s particular circumstances.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department’s response to Comment #1, which the department incorporates here by reference.

COMMENT #14: Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that they understand the pelvic-examination requirement before an abortion is part of the existing rule, but they nevertheless strongly urge the department to reconsider and rescind this requirement altogether.

RESPONSE: The department believes that using this rulemaking process to amend the existing rule to remove the requirement of a pelvic examination before an abortion would be impermissible because the public was not provided fair notice that such an amendment was being considered. Even if it were permissible, please see the department’s response to Comment #1, which the department incorporates here by reference.

COMMENT #15: Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented by describing its perception of the circumstances surrounding the department’s inspection of the Planned Parenthood St. Louis facility in March 2019 leading to the proposed amendment including that the department’s interpretation of the rule was new and caused the facility to perform two (2) pelvic examinations on patients, that performing two (2) pelvic examinations harmed patients, that the department acknowledged that its interpretation was causing harm, and that it changed the rule after significant public outcry.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department’s response to Comment #1, which the department incorporates here by reference.

COMMENT #16: Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that requiring a pelvic examination before every abortion runs counter to an evidence-based approach to medical care, is intrusive, not necessary to safety, overly invasive, bad medical practice, bad public policy because the government has

no place in a medical examination room, can cause unnecessary trauma when not medically indicated, is inconsistent with the emphasis on protecting bodily integrity in the #MeToo movement, and is not statutorily authorized as a rule governing the practice of medicine.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department’s response to Comment #1, which the department incorporates here by reference.

COMMENT #17: Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that the department has a history of attempting to restrict abortion access through the licensure process, citing (among other things) legislative changes requiring abortion facilities to be licensed, settlement of licensure disputes regarding the Columbia and Kansas City facilities, the department’s purported failure to abide by those settlements and purported shifting positions, the hospital-privileges requirements, the department’s revocation (later enjoined) of the Columbia facility’s license for failing to comply with the privileges requirement, litigation of the privileges requirements in light of *Whole Woman’s Health v. Hellerstedt* (ultimately resulting in denial of injunctive relief and dismissal by Planned Parenthood), licensure of the Columbia and Kansas City facilities and enactment of Senate Bill No. 5 (2017), the department’s enforcement of the rule requiring pelvic examinations before medication abortions and denial of requested waivers to that rule, and the result of St. Louis having the only abortion facility in Missouri that only performs surgical abortions.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department’s response to Comment #1, which the department incorporates here by reference.

COMMENT #18: Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that the department’s director is forcing woman to undergo medically unnecessary and invasive pelvic examinations and justified it as a “good thing to do” to women.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department’s response to Comment #1, which the department incorporates here by reference.

COMMENT #19: Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health

Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that the department is proposing to require pelvic examinations before abortions, that this is nefarious and violates their providers' ethics, that this restricts medication abortion as a backdoor way of blocking patients from receiving medication abortions, that this intrudes on the practice of medicine, and that the department's action is not surprising in light of the commenters' perception of the department's history with respect to abortion facilities.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #20:** Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that mandating that a pelvic examination be performed on all patients, regardless of medical indication, is medically inappropriate, asserting that the rule is not supported by medical research, is overbroad, constitutes interference with abortion providers' medical judgment regarding what exams are required, and constitutes a singling out of abortion facilities because hospitals (which may also perform abortions) do not have a similar requirement, nor do ambulatory surgical centers (ASCs) or birthing centers.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #21:** Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that understanding how inappropriate and invasive the pelvic-examination requirement is (which is not at issue in the proposed amendment) requires understanding what the examination entails, which the commenters purport to describe, that pelvic examinations are not viewed as pleasant and are viewed as particularly distressing by some women including those who have experienced sexual or other trauma, and that they should be limited to instances when there is a clear medical benefit.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #22:** Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and

Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that ACOG, Planned Parenthood Federation of America (PPFA), and the National Abortion Federation (NAF)—which the commenters describe as the most recognized national medical experts on women's health and abortion—consider a pelvic examination before a medication abortion as medically unnecessary except in specific circumstances, quoting ACOG and NAF statements on pelvic examinations, and the National Academies of Sciences, Engineering and Medicine confirmed that the clinical assessments required prior to medication abortion do not include a pelvic examination for all women.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #23:** Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that the department's previous treatment of the pelvic-examination requirement with respect to medication abortions further shows that it is not necessary, stating that it was not previously cited as a deficiency before 2018, email communication showed that surveyors believed it was unnecessary because sonograms were being performed on the patients, the department agreed in a 2010 settlement agreement covering a Kansas City facility that pelvic examinations need not be performed before every medication abortion, pelvic examinations were thought at that time to only be necessary to date the pregnancy, and there is no similar requirement on hospitals which also perform abortions.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**COMMENT #24:** Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that there is never any medical indication to perform a pelvic examination seventy-two (72) hours in advance of any abortion and doing so constitutes bad medical practice and harms and stigmatizes patients, asserting that the department does not understand basic female anatomy and that a pelvic examination must be done immediately before the procedure because a uterus's position may change as the result of several factors, including delay in performing the abortion caused by the seventy-two- (72-) hour informed consent requirement.

**RESPONSE:** This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no

change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

COMMENT #25: Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that requiring unnecessary pelvic examinations is bad patient care, that it stopped performing pelvic examinations seventy-two (72) hours before surgical abortions because it was not medically indicated and was causing harm to patients, and that it does not perform medication abortions because of the pelvic-examination requirement.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

COMMENT #26: Brandon Hill, President and CEO of the Comprehensive Health of Planned Parenthood Great Plains; and Yamelsie Rodriguez, President and CEO of Reproductive Health Services of Planned Parenthood of the St. Louis Region and Southwest Missouri commented that the department lacks statutory authority to require that pelvic examinations be performed before abortions in abortion facilities because doing so provides no medical benefit, the requirement in section 197.225.1(4), RSMo that there be administrative rules governing services provided in ASCs "in connection with" the care of patients does not encompass services provided as part of the care of patients, there is a difference between regulations that assure quality patient care (which section 197.225.1, RSMo authorizes) and regulations mandating the scope of that care, and the department has no authority to dictate what medical procedures or examinations must be performed in connection with health-care services.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

COMMENT #27: Mallory Schwarz, Executive Director of NARAL Pro-Choice Missouri, commented that the requirement of a pelvic examination prior to an abortion, including medical abortion, is unethical, coercive, and a clear attempt to manipulate pregnant people out of accessing legal abortion care, in that the requirement is opposed by health care providers including ACOG, it constitutes state-sanctioned assault, and it risks re-traumatizing victims of sexual assault which will affect one (1) in five (5) women, which is all contrary to a physician's oath to do no harm and the department's mission to be the leader in public health.

RESPONSE: This comment does not contain any specific recommendations or concerns regarding any of the language proposed to be amended in the proposed amendment. Rather, this comment generally advocates for, or is part of the general advocacy for, elimination of the requirement of a pelvic examination before an abortion, which is

not being proposed in the proposed amendment. Therefore, no change has been made to the proposed amendment based on this specific comment and no further response is required. Please also see the department's response to Comment #1, which the department incorporates here by reference.

**Title 20—DEPARTMENT OF COMMERCE AND INSURANCE**  
**Division 2205—Missouri Board of Occupational Therapy**  
**Chapter 5—Continuing Competency Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Board of Occupational Therapy under section 324.065, RSMo 2016, the board amends a rule as follows:

**20 CSR 2205-5.010** Continuing Competency Requirements  
**is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2019 (44 MoReg 2388-2391). 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 20—DEPARTMENT OF COMMERCE AND INSURANCE**  
**Division 2220—State Board of Pharmacy**  
**Chapter 2—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Pharmacy under sections 338.140 and 338.280, RSMo 2016, and sections 338.142 and 338.710, RSMo Supp. 2019, the board adopts a rule as follows:

**20 CSR 2220-2.990** Rx Cares For Missouri Program **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 2, 2019 (44 MoReg 2304-2306). 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 20—DEPARTMENT OF COMMERCE AND INSURANCE**  
**Division 2270—Missouri Veterinary Medical Board**  
**Chapter 4—Minimum Standards**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Veterinary Medical Board under section 340.210, RSMo 2016, the board amends a rule as follows:

**20 CSR 2270-4.050** Minimum Standards for Continuing Education for Veterinary Technicians **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2019 (44 MoReg 2394-2395). 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 20—DEPARTMENT OF COMMERCE AND  
INSURANCE  
Division 2270—Missouri Veterinary Medical Board  
Chapter 5—Veterinary Facilities Permits**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Veterinary Medical Board under section 340.210, RSMo 2016, the board amends a rule as follows:

**20 CSR 2270-5.011 Permit Applications is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2019 (44 MoReg 2396). 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.