

**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 symbolology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**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.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Amy Luecke, PO Box 630, Jefferson City, MO 65102 or by email to amy.luecke@mda.mo.gov. To be considered, comments must be received within thirty (30) days of publication of this notice in the Missouri Register. A public hearing is scheduled for November 16, 2020 from 10-11 a.m. at Missouri Department of Agriculture, 1616 Missouri Boulevard, Jefferson City, MO 65109 in the State Milk Board Office.*

### Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 1—Wildlife Code: Organization

#### PROPOSED AMENDMENT

**3 CSR 10-1.010 Organization and Methods of Operation.** The commission proposes to amend sections (2) and (3), add new section (4), and renumber subsequent sections of this rule.

*PURPOSE: This amendment modifies verbiage to more accurately describe the Department of Conservation's organizational structure.*

(2) The commission appoints a director who serves as the administrative officer of the Department of Conservation. The director appoints other employees. Deputy directors, general counsel, assistants to the director, **chief budget officer**, and internal auditor are responsible to the director and facilitate administration of the department. Programs and activities are carried out by *[administrative services, design and development, fisheries, forestry, human resources, outreach and education, private land services, protection, resource science, wildlife divisions, policy coordination, and information technology units]* **the divisions of Business, Engagement, and Resource Management.**

(3) The department carries out its programs through the following major administrative divisions *[and units]*:

*[(A) Fisheries Division manages four (4) warmwater fish hatcheries (for rearing the fish needed to stock public waters and waters used for special fishing events and aquatic resource education) and five (5) coldwater fish hatcheries (for rearing trout needed to stock public waters and trout parks); administers the Stream Team program; provides fisheries management of public impoundments, rivers, and streams; offers technical guidance in stream and lake management to private landowners and other public agencies; oversees the acquisition and development of public fishing and boat access areas; administers community, agency, and partnership agreements; participates in recovery plans of threatened or endangered aquatic species; and educates and informs the public about aquatic resources through technical and popular written materials, electronic media, presentations to groups, workshops, interviews to journalists, and personal contacts;*

*(B) Wildlife Division assists with the administration of hunting seasons on conservation areas; acquires, develops, and manages wildlife habitat, hunting, and other public use*

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

### Title 2—DEPARTMENT OF AGRICULTURE Division 80—State Milk Board Chapter 2—Grade "A" Pasteurized Milk Regulations

#### PROPOSED AMENDMENT

**2 CSR 80-2.190 State Milk Board Grade "A" Milk Policies.** The board is adding subsection (6)(D).

*PURPOSE: This amendment updates the policies to require a clearing sample before shipping milk after a permit suspension.*

(6) Permit Suspension.

**(D) A clearing sample is required before shipping milk.**

*AUTHORITY: section 196.939, RSMo 2016. Original rule filed June 21, 2011, effective Dec. 30, 2011. Amended: Filed April 30, 2018, effective Nov. 30, 2018. Amended: Filed Sept. 4, 2020.*

on conservation areas; assists private landowners with wildlife population and habitat management efforts; cooperates with federal and state agencies and farm organizations in wildlife management; develops improved management methods and promotes enhancement of wildlife habitat; provides coordination in the agency for management of species of conservation concern; restores natural communities and recognizes the best examples through the Missouri Natural Areas Program; provides international support for Missouri birds nesting in Canada and overwintering in Central America; and provides wildlife damage control assistance;

(C) Forestry Division controls wildland fires; manages forest and woodland habitat, restores natural communities, and facilitates public use on conservation areas; provides rural fire protection, training, and assistance; provides planning advice in urban and community forestry; provides forest products utilization and marketing advice; provides advice and technical assistance to private forestland owners; provides educational programs about forests and forest management; provides diagnosis and management of forest pest outbreaks; and provides low-cost tree planting stock to Missouri residents;

(D) Protection Division carries out the department's resource law enforcement program. Conservation agents perform a full range of conservation programs in their assigned districts and serve as the local representative for the department. The division also provides training in the safe and responsible use of firearms, investigates hunting-related firearms injuries, and coordinates the Operation Game Thief, Share the Harvest, and Interstate Wildlife Violator Compact programs;

(E) Outreach and Education Division administers the department's public information and education programs. Education programs include operating nature centers, visitor centers, and shooting ranges; developing interpretive exhibits; administering the hunter education program; teaching outdoor skills; and providing conservation education curricula, training, and materials to teachers and youth leaders. The division produces the department's magazine, books, and other publications; creates the Missouri Department of Conservation website, digital media, audio, and video productions; issues news releases and coordinates with news media; and coordinates the Missouri Master Naturalist and No More Trash programs;

(F) Administrative Services Division administers the department's financial and business support services. Financial services collect and process funds received; process accounts payable; and coordinate procurement. Business and support distributes hunting, fishing, and special permits; audits permit distributors; maintains inventory records, including the department's real property holdings; provides repair and disposition of fleet, aircraft, marine, and other mechanical equipment; maintains a distribution center and warehouse for department publications; and operates offset printing, mailing, and sign production services;

(G) Design and Development Division is responsible for providing engineering, architectural, surveying, and construction/maintenance services for the department. Services include design and construction of engineering and architectural projects as part of implementation of the construction development program of the department. Surveying services include engineering surveying for construction development projects and land surveying for property boundary delineation. Construction maintenance services include renovation and repair of department infrastructure and maintenance of department areas and facilities;

(H) Private Land Services Division provides technical assistance and resource training to private landowners; partici-

pates in media and other outreach efforts for resource management; coordinates with other governmental agencies and private organizations to integrate fish, forest, wildlife, and natural community considerations with agriculture and other private land initiatives; and provides cost-share to assist landowners with priority resource needs;

(I) Resource Science Division is the center of the department's resource inventory, monitoring, and research. The division helps department managers, administrators, and commissioners understand and conserve the biological diversity of Missouri's fish, forests, and wildlife. Other services of this division include: administration of hunting seasons; investigations of fish and wildlife impacted by pollution and contaminants; statewide information pertaining to fish, wildlife, and plant populations; diagnostics and monitoring of disease outbreaks in wildlife populations; surveys of habitats and natural communities; recommendations for Wildlife Code regulations; surveys of attitudes and satisfaction levels of constituents; surveys to determine hunter and angler harvests; monitoring and research of species of conservation concern; identification of plants, fish, and wildlife; development of management techniques for special natural communities and invasive species; and storage and development of geospatial databases of Missouri's natural resources; and conducts environmental reviews of proposed development. The State Wildlife Veterinarian plans, directs, coordinates, and implements statewide programs for prevention, detection, control, and management of emerging and known diseases occurring in wildlife populations;

(J) Human Resources Division provides a full range of services that help the department attract and retain a diversified, dynamic workforce. Services and programs include recruitment and selection, including Equal Employment Opportunity and Workforce Diversity; compensation and classification administration; policy administration, including law and regulation compliance and employee relations; employee benefits administration, including administration of a comprehensive group life, medical, accidental death and dismemberment, and dependent life insurance program; maintaining official employee documents and records; managing a safety program (including workers' compensation); and new employee orientation, as well as in-service training in human relations, personal communications, and supervisory skills;

(K) Policy Coordination Unit serves the director, divisions, and regions by assisting with environmental and regulatory issues; and

(L) Information Technology Unit provides direction and management of the department's information technology assets, including computer hardware and software systems, telephone systems, two-way radio and other telecommunication systems, and coordination of those systems with other state agencies.]

(A) Business includes the following branches: Conservation Business Services, Human Resources, Information Technology, and Infrastructure Management. These branches are responsible for management of the department's financial, human, fleet, equipment, and information technology resources, including administering human resource activities intended to attract and retain a diversified, dynamic workforce; providing direction and management of the department's information technology assets, including computer hardware and software systems, telephone, other telecommunication systems, and coordination of those systems with other state agencies; providing engineering, architectural, surveying, and construction/maintenance services and infrastructure asset tracking and planning; collecting and processing all revenues received; processing accounts payable; coordinating procurement; and administering all recreational and

commercial licenses offered by the department;

(B) Engagement includes the following branches: Communications, Relevancy, Education, Governmental Affairs, and Policy. These branches are responsible for the department's public information efforts, education programs and facilities, interagency coordination, volunteer programs, and publications. These efforts include offering education programs; operating nature centers, visitor centers, and shooting ranges; developing interpretive exhibits; administering the hunter education program; teaching outdoor skills; providing conservation education curricula, training, and materials to teachers; producing the department's magazines, books, and other publications; creating and maintaining the Missouri Department of Conservation website, digital media, audio, and video productions; issuing news releases and coordinating with news media; providing strategic guidance on citizen engagement; developing volunteer and partnership programs; assisting with environmental and regulatory issues; and providing interagency coordination with various federal, state, and non-governmental interest groups; and

(C) Resource Management includes the following branches: Statewide Resource Management, Regional Resource Management, Community and Private Land Conservation, Science, and Protection. These branches are responsible for resource management, restoration, and protection, as well as research, in order to conserve Missouri's fish, forest, and wildlife resources. These efforts include guiding strategic planning of conservation priorities; maintaining conservation areas for public use; developing and implementing a Comprehensive Conservation Strategy; implementing statewide and regional programs and services; guiding strategic budget development related to resource management; leading development of regulations, policies, and procedures to effectively manage Missouri's fish, forest, and wildlife resources; directing activities to further public recreation, appreciation, and use of fish, forest, and wildlife resources; and encouraging compliance with the *Wildlife Code of Missouri* through enforcement and education.

(4) The method by which the public may obtain information or make submissions or requests to the department are by letter, telephone call, email, or personal visit. The address, phone number, and email are: PO Box 180, Jefferson City, MO 65102-0180 or 2901 W. Truman Boulevard, Jefferson City, MO 65109, 573-751-4115, or askmdc@mdc.mo.gov.

[(4)](5) Conservation Commission meetings are open to the public. Some of the meetings are held in Jefferson City, with the remainder in various locations throughout the state, often at the invitation of interested local citizens. Any person may be scheduled on a meeting agenda to make a presentation to the commission by submitting a written request to the director at least ten (10) working days prior to a meeting date. Comments or suggestions by letter are always welcomed. Information relating to conservation may be obtained by writing to the director or appropriate staff members, or by calling any conservation office.

[(5)](6) The performance of any duty or the exercise of any authority by the Conservation Commission shall be done in the following manner:

(A) Meetings. Regular meetings may be held at any time and place within the state as may be agreed to by a majority of commission members. Special meetings may be held by unanimous consent of all commissioners. All regular and special meetings will be held pursuant to the applicable laws of Missouri;

(B) Quorum. A majority of commissioners, three (3), shall constitute a quorum for the transaction of business. If a quorum is not present, the remaining members must adjourn the meeting to a later time. No business shall be transacted without a quorum;

(C) Voting. Any action shall be adopted if it receives a majority of

votes cast with a quorum. Proxy voting will not be allowed. If any commissioner is present but does not vote, the abstention shall not be counted as a vote. Unless the vote is unanimous, the secretary shall indicate in the minutes how each commissioner voted;

(D) Officers. The commission shall elect at the meeting in July of each year the following officers: chairman, vice chairman, secretary. These officers will hold office until their successors are elected.

1. The chairman shall conduct the meetings and be the presiding officer of the commission. The chairman shall recognize the different members for the purpose of having the floor to speak, to state and put actions to vote, and shall rule on all points of order. The chairman may not make a motion, but may second a motion put on the floor and may vote on any issue before the body.

2. In the absence of the chairman, the vice chairman shall assume the duties of the chairman.

3. The secretary shall sign all minutes of the commission as prepared by the secretary for the commission;

(E) Delegation. The director is authorized to act for the commission in emergency matters subject to ratification by the commission at the next regular meeting. The director is authorized to execute any conveyances, easements, or other documents on behalf of the commission as it may direct; and

(F) Miscellaneous. Any matters not covered by these rules, or court decisions and the statutes of Missouri shall be governed by *Robert's Rules of Order*.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 28, 1974, effective July 8, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 4—Wildlife Code: General Provisions

#### PROPOSED AMENDMENT

**3 CSR 10-4.135 Transportation.** The commission proposes to amend sections (1) and (4) of this rule.

*PURPOSE: This amendment adds provisions for black bears taken during the black bear hunting season and black bears legally harvested outside of Missouri.*

(1) Wildlife legally taken by sport hunting and fishing may be possessed and transported into, within, or out of this state as personal baggage of the taker, who has in his/her possession the required permit, or by other lawful possessor. Except for **black bears**, cervids, and turkeys taken in Missouri, persons possessing wildlife taken by another shall plainly label that wildlife with the full name, address, and permit number of the taker and the date taken, except that Missouri limits shall apply on Missouri waters unless otherwise

provided by reciprocal agreement. Except as otherwise provided in this rule, **black bears**, cervids, and turkeys reported in accordance with established procedures, when labeled with the full name, address, date taken, and Telecheck confirmation number of the taker, may be possessed, transported, and stored by anyone.

(4) In addition to personal transportation, legally possessed commercial fish, frogs, cervid hides, squirrel and rabbit pelts, [and] furbearer pelts and carcasses, **and black bear pelts** may be shipped by mail, express and freight, when truly labeled with the names and addresses of shipper and addressee, shipper's permit number, or Telecheck confirmation number, as required, and the contents of each package. Wildlife breeders, taxidermists, fur dealers, and tanners may ship according to regulations specifically provided for such permittees. Wildlife shall not be accepted for shipment unless the shipper shall have complied with the provisions of this rule.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 14, 1970, effective Dec. 31, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 4—Wildlife Code: General Provisions**

**PROPOSED AMENDMENT**

**3 CSR 10-4.136 Giving Away Wildlife.** The commission proposes to amend this rule.

*PURPOSE: This proposed amendment adds provisions for black bears taken during the black bear hunting season.*

Wildlife, **except black bear gallbladders, that is** legally taken and possessed may be given to another only by the taker after completion of the day's fishing or hunt. Any wildlife given to another shall continue to be included in the daily limit of the taker for the day when taken. Wildlife, **except black bears**, deer, elk, and turkeys taken in Missouri, shall be labeled with the full name, address and permit number of the taker, species, and the date when taken. **Black bears, [D]deer, elk, and turkeys** taken in Missouri shall be labeled with the full name and address of the taker, the date taken, and the Telecheck confirmation number of the **black bears**, deer, elk, or turkeys. Wildlife received as a gift shall be included in the possession limit of the recipient.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 17, 1966, effective Dec. 31, 1966. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 4—Wildlife Code: General Provisions**

**PROPOSED AMENDMENT**

**3 CSR 10-4.137 Wildlife Identification.** The commission proposes to amend this rule.

*PURPOSE: This proposed amendment adds provisions for black bears taken during the black bear hunting season and black bears legally harvested outside of Missouri.*

The taker and/or possessor of any wildlife shall keep the wildlife separate or distinctly identifiable from wildlife taken or possessed by another. When not personally attended, the wildlife shall be plainly labeled with the full name and address, or Conservation Number, of the taker and/or possessor, except as provided in 3 CSR 10-6.405, 3 CSR 10-7.431, 3 CSR 10-7.455, [and] 3 CSR 10-7.700, **and 3 CSR 10-7.900.**

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 26, 1964, effective Dec. 31, 1964. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*PUBLIC COST: This proposed amendment will not cost a 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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 4—Wildlife Code: General Provisions**

**PROPOSED AMENDMENT**

**3 CSR 10-4.140 Possession, Storage, and Processing.** The commission proposes to amend sections (2) and (3) of this rule.

*PURPOSE: The proposed amendment add provisions for black bears*

taken during the black bear hunting season.

(2) All stored wildlife, except **black bears**, deer, elk, and turkeys taken in Missouri, shall be labeled with the owner's full name and address, or Conservation Number, and permit number[, *as*] if required, species, and date of placing in storage. If taken in another state or country, it also shall [*bear*] **include** the export certificate, if required. Stored **black bears**, deer, elk, and turkeys taken in Missouri shall be labeled with the taker's full name and address, or Conservation Number, the date taken, and the Telecheck confirmation number of the **black bear**, deer, elk, or turkey.

(3) The manager of any commercial processing or cold storage plant shall possess, process, or store **black bears**, deer, and elk only under the provisions of 3 CSR 10-10.744. **Black bears**, [*D*]/deer, and elk left for processing at any commercial processing plant shall be claimed by the owner by May 1 following the season when taken. All commercially-processed **black bears**, deer, and elk not claimed and picked up or stored by May 1 following the season when taken shall be considered abandoned and must be reported immediately to an agent of the department for disposal.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 14, 1970, effective Dec. 31, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 4—Wildlife Code: General Provisions

#### PROPOSED AMENDMENT

**3 CSR 10-4.145 Preparing and Serving Wildlife.** The commission proposes to amend section (1) of this rule.

*PURPOSE: This proposed amendment adds provisions for black bears taken during the black bear hunting season and adds conservation number as a method for labeling wildlife.*

(1) Any person possessing wildlife legally may serve it in his/her home or camp, or deliver it in person to any place customarily engaged in serving food and, within seven (7) days of delivery, may have it prepared and [*served*] **returned** to him/her. The wildlife shall be labeled with the full name[, *and*] address, or **Conservation Number**, and[, *and*] where required, permit number or for **black bears**, deer, elk, and turkeys, Telecheck confirmation number of the taker and this information, together with the species and number of wildlife and the date of delivery, shall be recorded by the recipient.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 18, 1969, effective Dec. 31, 1969. For intervening his-*

*tory, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

#### PROPOSED AMENDMENT

**3 CSR 10-5.205 Permits Required; Exceptions.** The commission proposes to amend subsections (1)(A), (1)(C), (1)(E), (1)(F), (1)(H), (1)(J), (1)(K), and (1)(R) of this rule.

*PURPOSE: This proposed amendment adds requirements and exceptions for black bear hunting permits and black bear hunting. Additionally, the proposed amendment to subsection (1)(A) removes reference to landowner elk hunting permits and instead adds Resident Antlered Elk Hunting Permit. The proposed amendment to subsection (1)(C) clarifies the exception applies to deer and turkey permits.*

(1) Any person who chases, pursues, takes, transports, ships, buys, sells, possesses, or uses wildlife in any manner must first obtain the prescribed hunting, fishing, trapping, or other permit, or be exempted under 3 CSR 10-9.110, with the following exceptions:

(A) A resident landowner as defined in this Code, may hunt, trap, or fish as prescribed in Chapters 6, 7, and 8 without permit (except **black bear and elk hunting permits** and landowner deer, [*elk,*] and turkey hunting permits, Migratory Bird Hunting Permit, and Conservation Order Permit as prescribed), but only on land s/he owns and may transport and possess wildlife so taken;

(C) Any resident of Missouri sixty-five (65) years of age or older may take wildlife as provided in Chapter 7 without permit (except all [*special*] **black bear, deer, elk, and turkey** hunting permits, [*elk hunting permits,*] Migratory Bird Hunting Permit, and Conservation Order Permit as prescribed); provided, while hunting, s/he carries a valid Missouri driver license, notarized affidavit, or similar official document proving his/her eligibility based on residency and age, and shall submit documentation for inspection by any agent of the department on request;

(E) Any person fifteen (15) years of age or younger may take wildlife (except **black bears**, deer, elk, and turkeys) as provided in Chapter 7 without permit provided, s/he has in his/her possession a valid hunter education certificate card or s/he is in the immediate presence of a properly licensed adult hunter who is eighteen (18) years of age or older and has in his/her possession a valid hunter education certificate card or was born before January 1, 1967. Persons under eleven (11) years of age may not purchase firearms deer and turkey hunting permits except as provided in subsection (1)(F) of this rule (see 3 CSR 10-5.215(4));

(F) Any person at least six (6) but not older than fifteen (15) years of age may purchase [*D*]/deer and [*T*]/turkey [*H*]/hunting [*P*]/permits without display of a hunter education certificate card.

Except as provided in subsection (1)(G) of this rule, such person must hunt in the immediate presence of a properly licensed adult hunter who is eighteen (18) years of age or older and has in his/her possession a valid hunter education certificate card or was born before January 1, 1967;

(H) Any person at least eleven (11) but not older than fifteen (15) years of age with a hunter education certificate card and a valid **black bear or elk** hunting permit may hunt in the immediate presence of an adult who is eighteen (18) years of age or older and has in his/her possession a valid hunter education certificate card or was born before January 1, 1967. Any adult meeting these requirements may accompany youth **black bear or elk** hunters as prescribed in this subsection without a permit;

(J) Any person born on or after January 1, 1967, and at least sixteen (16) years of age and who does not possess a valid hunter education certificate card may purchase an Apprentice Hunter Authorization for no more than two (2) permit years (March 1 through the last day of February). The Apprentice Hunter Authorization allows the holder to purchase any firearms hunting permit (except **black bear and elk** hunting permits) as provided in this chapter without display of a hunter education certificate card. Such person must hunt in the immediate presence of a properly licensed adult hunter who is eighteen (18) years of age or older and who has in his/her possession a valid hunter education certificate card or was born before January 1, 1967;

(K) Any resident of Missouri with a developmental disability as defined in section 630.005, RSMo, born on or after January 1, 1967, and at least sixteen (16) years of age and who has taken the Hunter Education Certification Course may purchase any firearms hunting permit as provided in this chapter without display of a valid hunter education certificate card, provided s/he carries a physician's statement provided by the department and signed by a licensed physician qualified to evaluate and treat the condition described and certifies the person has this disability. Such person must hunt in the immediate presence of a properly licensed adult hunter who is eighteen (18) years of age or older and who has in his/her possession a valid hunter education certificate card or was born before January 1, 1967, except any adult meeting these requirements may accompany **without a permit** such person with a developmental disability who is hunting on a valid **black bear or elk** hunting permit during the prescribed **black bear or elk** hunting seasons *[without a permit]*. Printed copies of the physician's statement form can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org);

(R) Any honorably discharged military veteran having a service-related disability of sixty percent (60%) or greater, or who was a prisoner of war during military service, or any member of the U.S. military currently assigned as a patient to a Warrior Transition Brigade, Warrior Transition Unit, or a military medical center, may take fish, live bait, clams, mussels, turtles, and frogs as provided in Chapter 6 without permit (except trout permit or daily tag in areas where prescribed), and may take wildlife as provided in Chapter 7 without permit (except **black bear**, deer, elk, and turkey hunting permits, Migratory Bird Hunting Permit, and Conservation Order Permit as prescribed); provided, while hunting or fishing, s/he carries a certified statement of eligibility from the U.S. Department of Veterans Affairs, or orders showing assignment to a Warrior Transition Unit or admissions verification to a military medical center;

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

#### PROPOSED AMENDMENT

**3 CSR 10-5.215 Permits and Privileges: How Obtained; Not Transferable.** The commission proposes to amend sections (4) and (5) of this rule.

*PURPOSE: This proposed amendment adds requirements and exceptions for obtaining a Resident Black Bear Hunting Permit.*

(4) Any person born on or after January 1, 1967, shall obtain and display an approved hunter education certificate card prior to purchase of any firearms hunting permit, except as exempted in 3 CSR 10-5.205. Any person purchasing a firearms hunting permit for another person who is required to be hunter education certified must display a valid hunter education certificate card bearing the name of the person for whom the permit is being purchased. A hunter education card need not be displayed if certification can be verified through direct access to computer data files. Hunter education certification shall be verified by permit vendors on all firearms hunting permits, except as exempted in 3 CSR 10-5.205. Hunter education certification shall be limited to persons eleven (11) years of age or older. **Black bear and /E/elk** hunting permits may be obtained only by residents of Missouri eleven (11) years of age or older that have obtained an approved hunter education certificate card or were born before January 1, 1967, except as exempted in 3 CSR 10-5.205 (1)(K). The Missouri Conservation Permit Card will be issued as a replacement for lost or damaged hunter education certificate cards (fee: two dollars (\$2)).

(5) Permits are nontransferable and are valid from date of purchase through the last day of February of the prescribed permit year; except the Migratory Bird Hunting Permit, the Resident Trapping Permit, and the Nonresident Furbearer Hunting and Trapping Permit shall be valid through June 30. Except as provided for permits purchased by telephone, no affidavit, receipt, or other document may be issued or used in lieu of the required permit. Temporary permit authorization number(s) allowing immediate use of permit privileges may be provided for permits (except **black bear**, deer, elk, and turkey permits) purchased through the department's authorized telephone sales service provider. The temporary permit authorization number(s) and picture identification must be carried at all times while hunting, fishing, or trapping until the actual permit(s) is received. Any permit issued or obtained by false statement or through fraud, or while privileges are revoked or denied by the commission, shall be invalid.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.225 Permits: Permit Issuing Agents; Service Fees; Other Provisions.** The commission proposes to amend subsections (6)(A) and (6)(B) of this rule.

*PURPOSE:* This proposed amendment adds black bear hunting permits to the list of exceptions for Apprentice Hunter Authorizations.

(6) Firearms hunting permits may not be sold to any persons born on or after January 1, 1967, unless an approved hunter education certificate card is displayed, or hunter education certification can be verified through direct access to computer data files, except that—

(A) Any firearms hunting permit (except **black bear and elk** as provided in 3 CSR 10-5.205) may be sold to any person born on or after January 1, 1967, and at least sixteen (16) years of age, who purchases an Apprentice Hunter Authorization without display of a hunter education certificate card.

(B) Deer and [T]turkey [H]hunting [P]permits may be sold to persons at least six (6), but not older than fifteen (15), years of age without requiring display of a hunter education certificate card.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This version of rule filed Aug. 26, 1975, effective Dec. 31, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.300 Apprentice Hunter Authorization.** The commission proposes to amend this rule.

*PURPOSE:* This proposed amendment adds an exception for black

bear hunting permits regarding a hunter education certificate.

To allow the purchase of firearms hunting permits (except **black bear and elk** as provided in 3 CSR 10-5.205) by persons born on or after January 1, 1967, and at least sixteen (16) years of age without display of a hunter education certificate card. This authorization may be purchased annually for no more than two (2) permit years (March 1 through the last day of February). Fee: ten dollars (\$10).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Sept. 27, 2007, effective Feb. 29, 2008. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.310 Resident Lifetime Conservation Partner Permit.** The commission proposes to amend section (1) of this rule.

*PURPOSE:* This proposed amendment adds an exception for the take of black bear regarding a resident lifetime permit. This amendment specifically excludes black bears from the species of mammals that may be chased, pursued, taken, possessed, and transported by the holder of this permit.

(1) To chase, pursue, take, possess, and transport fish (including trout), frogs, mussels, clams, turtles, crayfish, live bait, birds (blue, snow, and Ross's geese during the Conservation Order and migratory birds; except [wild] turkeys), and mammals (except **black bears**, deer, and elk), and to sell furbearers taken by hunting. Fee[:]-

(A) For persons age fifteen (15) and under: five hundred fifty dollars (\$550);

(B) For persons age sixteen (16) through twenty-nine (29): eight hundred dollars (\$800);

(C) For persons age thirty (30) through thirty-nine (39): seven hundred dollars (\$700);

(D) For persons age forty (40) through fifty-nine (59): six hundred dollars (\$600); **and**

(E) For persons age sixty (60) and older: seventy dollars (\$70).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 20, 1995, effective Jan. 1, 1996. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*PUBLIC COST:* This proposed amendment will not cost a 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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.320 Resident Lifetime Small Game Hunting Permit.** The commission proposes to amend section (1) of this rule.

*PURPOSE:* This proposed amendment adds an exception for the take of black bear regarding a resident lifetime permit. This amendment specifically excludes black bears from the species of mammals that may be chased, pursued, taken, possessed, and transported by the holder of this permit.

(1) To chase, pursue, take, possess, and transport birds (blue, snow, and Ross's geese during the Conservation Order and migratory birds; except [wild] turkeys), mammals (except **black bears**, deer, and elk), and frogs, and to sell furbearers taken by hunting. Fee:—

(A) For persons age fifteen (15) and under: Two hundred seventy-five dollars (\$275);

(B) For persons age sixteen (16) through twenty-nine (29): Four hundred dollars (\$400);

(C) For persons age thirty (30) through thirty-nine (39): Three hundred fifty dollars (\$350);

(D) For persons age forty (40) through fifty-nine (59): Three hundred dollars (\$300); and

(E) For persons age sixty (60) and older: Thirty-five dollars (\$35).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 20, 1995, effective Jan. 1, 1996. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.330 Resident Small Game Hunting and Fishing Permit.** The commission proposes to amend this rule.

*PURPOSE:* This proposed amendment adds an exception for the take of black bear regarding a resident hunting and fishing permit. This amendment specifically excludes black bears from the species of mammals that may be chased, pursued, taken, possessed, and transported by the holder of this permit.

To chase, pursue, take, possess, and transport fish, frogs, mussels, clams, turtles, crayfish, live bait, birds (except [wild] turkeys), and mammals (except **black bears**, deer, and elk), and to sell furbearers taken by hunting. Fee: nineteen dollars (\$19).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.230. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.331 Resident National Guard and Reserve Service Small Game Hunting and Fishing Permit.** The commission proposes to amend this rule.

*PURPOSE:* This proposed amendment adds an exception for the take of black bear regarding a national guard and reserve hunting and fishing permit. This amendment specifically excludes black bears from the species of mammals that may be chased, pursued, taken, possessed, and transported by the holder of this permit.

For residents of Missouri who are currently, or have in the previous twelve (12) months, been mobilized and serving on full-time active military duty in either the National Guard (in Federal Status) or Reserve forces of the United States to chase, pursue, take, possess, and transport fish, frogs, mussels, clams, turtles, crayfish, live bait, birds (except [wild] turkeys), and mammals (except **black bears**, deer, and elk), and to sell furbearers taken by hunting. Fee: five dollars (\$5).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Jan. 30, 2006, effective June 30, 2006. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.345 Resident Small Game Hunting Permit.** The commission proposes to amend this rule.

*PURPOSE: This proposed amendment adds an exception for the take of black bear regarding a small game hunting permit. This amendment specifically excludes black bears from the species of mammals that may be chased, pursued, taken, possessed, and transported by the holder of this permit.*

To chase, pursue, take, possess, and transport birds (except [wild] turkeys), mammals (except **black bears**, deer, and elk), and frogs, and to sell furbearers taken by hunting. Fee: ten dollars (\$10).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.255. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.445 Daily Small Game Hunting Permit.** The commission proposes to amend this rule.

*PURPOSE: This proposed amendment adds an exception for the take of black bear regarding a daily hunting permit. This amendment specifically excludes black bears from the species of mammals that may be chased, pursued, taken, possessed, and transported by the holder of this permit.*

To chase, pursue, take, possess, and transport birds (except [wild] turkeys), mammals (except **black bears**, deer, elk, and furbearers), and frogs, and to chase furbearers for training dogs during the closed

season. Fee: fourteen dollars (\$14) per day. A permit may be purchased for multiple days.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 20, 1995, effective Jan. 1, 1996. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.545 Nonresident Small Game Hunting Permit.** The commission proposes to amend this rule.

*PURPOSE: This proposed amendment adds an exception for the take of black bear regarding a nonresident hunting permit. This amendment specifically excludes black bears from the species of mammals that may be chased, pursued, taken, possessed, and transported by the holder of this permit.*

To chase, pursue, take, possess, and transport birds (except [wild] turkeys), mammals (except **black bears**, deer, elk, and furbearers), and frogs, and to chase furbearers for training dogs during the closed season. Fee: ninety-four dollars (\$94).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.270. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED AMENDMENT**

**3 CSR 10-5.605 Nonresident Firearms Deer Management Assistance Program Permit.** The commission proposes to amend this rule.

*PURPOSE:* This amendment adds a Nonresident Landowner Firearms Any-Deer Hunting Permit to the list of prerequisites to be able to purchase a Nonresident Firearms Deer Management Assistance Program Permit.

To pursue, take, possess, and transport one (1) antlerless deer from property enrolled in the department's deer management assistance program. A Nonresident Firearms Any-Deer Hunting Permit, **Nonresident Landowner Firearms Any-Deer Hunting Permit**, or a Nonresident Managed Deer Hunting Permit is required as a prerequisite to this permit. Fee: twenty-five dollars (\$25).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 28, 2018, effective March 1, 2019. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED RESCISSION**

**3 CSR 10-5.705 Resident Landowner Antlered Elk Hunting Permit.** This rule established a permit for resident landowners to take an antlered elk on their property within the resident landowner permit zone during the elk hunting season.

*PURPOSE:* This rule is being rescinded as the Resident Landowner Antlered Elk Hunting Permit will no longer be utilized; qualifying landowners will now apply for a permit that is valid within counties open to elk hunting on both public and private property.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed June 28, 2019, effective Dec. 30, 2019. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 5—Wildlife Code: Permits**

**PROPOSED RULE**

**3 CSR 10-5.900 Resident Black Bear Hunting Permit**

*PURPOSE:* This rule establishes a black bear hunting permit for residents.

To pursue, take, possess, and transport one (1) black bear during the black bear hunting season. Fee: twenty-five dollars (\$25).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Sept. 4, 2020.

*PUBLIC COST:* This proposed rule will cost state agencies or political subdivisions an estimated twenty-four thousand dollars (\$24,000) in the aggregate to modify the department's licensing platform system.

*PRIVATE COST:* This proposed rule will cost private entities a range from six thousand two hundred fifty dollars (\$6,250) to twelve thousand five hundred dollars (\$12,500) annually in the aggregate. This estimate may annually change up or down based on harvest quota, annual harvest rate, and estimated size of Missouri's black bear population and growth rate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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: Department of Conservation  
 Division Title: Division 10 – Conservation Commission  
 Chapter Title: Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

Rule Number and Name:	3 CSR 10-5.900 Resident Black Bear Hunting Permit
Type of Rulemaking:	Proposed Rule

## II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Conservation	\$24,000 – one-time cost

## III. WORKSHEET

\$24,000 (estimate to modify the Departments MDC Suite)

## IV. ASSUMPTIONS

This is a one-time payment to modify the MDC Suite, including MO Hunting, Agent Online, and Agent Mobile. No additional costs associated with this change are anticipated for the life of the rule.

FISCAL NOTE  
PRIVATE COST

- I. Department Title: Department of Conservation  
Division Title: Division 10 – Conservation Commission  
Chapter Title: Chapter 5—Wildlife Code: Permits

Rule Number and Name:	3 CSR 10-5.900 Resident Black Bear Hunting Permit
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Individuals utilizing the new permit.	Annual aggregate is estimated at between \$6,250 and \$12,500 for the foreseeable future; however, the permit availability may be variable from year to year based on population growth, annual harvest rates, and harvest quota.

III. WORKSHEET

[\$25 (cost of black bear permit)] X [250 to 500 (estimated range of permit availability for the initial year, with an assumption of less than 10% harvest rate)] = \$6,250 to \$12,500 (range of initial overall annual aggregate)

IV. ASSUMPTIONS

Assuming the size and composition of Missouri's black bear population remains stable, the Department anticipates limiting permit availability to 250-500 per year. This estimate assumes a less than 10% harvest rate (25-50 bears); however, permit availability may go up or down based on harvest rates, harvest quota, and estimated size of Missouri's black bear population and growth rate.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 6—Wildlife Code: Sport Fishing: Seasons,**  
**Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.550 Other Fish.** The commission proposes to amend paragraphs (2)(B)1. and (2)(B)3. and subsection (2)(C), add a new subsection (2)(D), and re-letter subsequent subsections of this rule.

*PURPOSE: This amendment adds specifically-listed streams, or designated portions of these streams, to the locations where fish included in this rule may be taken by bow during all hours throughout the year and changes references in this section from Truman Lake to Harry S. Truman Reservoir.*

(2) Methods and Seasons.

(B) Fish included in this rule may be taken by snagging, snaring, or grabbing from March 15 through May 15 and from September 15 through January 31, except:—

1. In the Osage River downstream from U.S. Highway 54 to its confluence with the Missouri River and in the impounded waters of Lake of the Ozarks and [Truman Lake] **Harry S. Truman Reservoir**, fish may be taken by these methods only from March 15 through April 30.;

2. In the Mississippi River, fish may be taken by these methods from March 15 through May 15 and from September 15 through December 15.; and

3. On Lake of the Ozarks and its tributaries, Osage River below U.S. Highway 54, and [Truman Lake] **Harry S. Truman Reservoir** and its tributaries, no person shall continue to snag, snare, or grab for any species after taking a daily limit of two (2) paddlefish.

(C) Fish included in this rule may be taken by bow from streams only between sunrise and midnight [and from impounded and] throughout the year, except fish included in this rule may be taken by bow during all hours from commercial waters [during all hours throughout the year; except that from February 1 through March 31 on impounded waters, fish may be taken by this method only between sunrise and midnight.] and the following streams or designated portions thereof:

1. Apple Creek from the Interstate 55 bridge to its confluence with the Mississippi River;

2. Blackwater River from the U.S. Highway 65 bridge to its confluence with the Missouri River;

3. Cedar Creek from the Interstate 70 bridge to its confluence with the Missouri River;

4. Diversion Channel/Hubble Creek from the Highway N bridge to its confluence with the Mississippi River;

5. Fishing River from the Highway 210 bridge to its confluence with the Missouri River;

6. Gasconade River from the U.S. Highway 50 bridge to its confluence with the Missouri River;

7. Grand River;

8. Lamine River from the U.S. Highway 50 bridge to its confluence with the Missouri River;

9. Little Blue River from the U.S. Highway 24 bridge to its confluence with the Missouri River;

10. Little Platte River from the U.S. Highway 169 bridge to its confluence with the Platte River;

11. Nishnabotna River;

12. 102 River;

13. Osage River from the no fishing zone two hundred twenty-five feet (225') below Bagnell Dam to its confluence with the Missouri River;

14. Perche Creek from the Interstate 70 bridge to its confluence with the Missouri River;

15. Platte River;

16. Sni-a-bar Creek from the confluence with East Sni-a-bar Creek to its confluence with the Missouri River; and

17. Tarkio River.

(D) Fish included in this rule may be taken by bow from impounded waters during all hours throughout the year; except fish included in this rule may be taken by bow on these waters only between sunrise and midnight from February 1 through March 31.

[(D)](E) Fish included in this rule may be taken by gig or atlatl from streams and impoundments between sunrise and midnight from September 15 through February 15, and from impounded waters between sunrise and sunset throughout the remainder of the year.

[(E)](F) Fish included in this rule may be taken by crossbow or underwater spearfishing from impounded waters between sunrise and sunset throughout the year.

[(F)](G) Fish included in this rule may be taken from waters existing temporarily through overflow outside the banks of a river or ditch by gig, atlatl, underwater spearfishing, bow, crossbow, snagging, or grabbing between sunrise and sunset throughout the year.

[(G)](H) Invasive fish can be taken by hand net and those that jump from the water on or into a watercraft, or onto land, may also be taken and possessed in any number.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 7—Wildlife Code: Hunting: Seasons, Methods,**  
**Limits**

**PROPOSED RULE**

**3 CSR 10-7.412 Landowner Application**

*PURPOSE: This rule describes the process by which landowners as defined in 3 CSR 10-20.805 may submit an application to obtain landowner deer and turkey permits and to apply for the elk and bear permits that will be awarded to approved landowners.*

(1) Resident and nonresident landowners as defined in 3 CSR 10-20.805 may apply for approval on a form provided by the department to obtain landowner deer and turkey hunting permits.

(2) Resident landowners as defined in 3 CSR 10-20.805 whose qualifying property is in Carter, Reynolds, or Shannon Counties may apply for approval to be eligible for the Resident Antlered Elk Hunting Permit(s) awarded to approved resident landowners as described in 3 CSR 10-7.710.

(3) Resident landowners as defined in 3 CSR 10-20.805 whose qualifying property is fully located in any Black Bear Management Zone may apply for approval to be eligible for the Resident Black Bear Hunting Permits awarded to approved resident landowners within the Bear Management Zone for which they are applying, as described in 3 CSR 10-7.905.

(4) This application shall include the applicant's name, date of birth, domicile address, phone number, conservation identification number, e-mail, property acreage, landowner type, type of corporate ownership (if applicable), and parcel identification for the qualifying property. All applicants must submit an individual application. A new application for approval to obtain landowner deer and turkey hunting permits or to establish eligibility for the bear and elk permits awarded to approved resident landowners must be submitted at least once every three (3) years or at any time when there is a change to any information required on the current application. Approval of applications received less than sixty (60) days prior to any deer or turkey hunting season or prior to any bear or elk hunt application period cannot be guaranteed. In addition to the application required by this rule, submission of proof of eligibility to receive landowner permits or for the bear or elk permits awarded to approved resident landowners may also be required by the department at any time. Failure to submit satisfactory proof of eligibility at the request of the department shall be sufficient cause for denial of an application or withdrawal of approval to obtain landowner deer or turkey hunting permits or to be considered for the bear or elk permits awarded to approved resident landowners.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-7.434 Deer: Landowner Privileges.** The commission proposes to amend section (1), remove subsection (1)(A), and re-letter subsequent subsections of this rule.

*PURPOSE: This amendment simplifies the Wildlife Code by removing the landowner application process for deer permits. That process will be moved to 3 CSR 10-7.412.*

(1) Resident and nonresident landowners as defined in 3 CSR 10-20.805 may obtain landowner deer hunting permits from any permit vendor, but only after application to and approval by the department in accordance with 3 CSR 10-7.412. [Landowner permits may be obtained only in accordance with this rule.]

*[(A) Resident and nonresident landowners may apply for approval to obtain landowner deer hunting permits on a form provided by the department. This application shall include the applicant's name, date of birth, domicile address, phone number, conservation identification number, e-mail, property acreage, landowner type, type of corporate ownership (if applicable), and parcel identification for the qualifying property. All applicants must submit an individual application. A new application for approval to obtain landowner deer hunting permits must be submitted at least once every three (3) years or at any time when there is a change to any information required on the current application. Approval of applications received less than (60) sixty days prior to any deer hunting season cannot be guaranteed. In addition to the application required by this rule, submission of proof of eligibility to receive landowner permits may also be required by the department at any time. Failure to submit satisfactory proof of eligibility at the request of the department shall be sufficient cause for denial of an application or withdrawal of approval to obtain landowner deer hunting permits.]*

*[(B)](A) Approved resident landowners may obtain the following permits at no-cost: one (1) Resident Landowner Firearms Any-Deer Hunting Permit, one (1) Resident Landowner Archer's Hunting Permit, and, if property is in a county in which Archery Antlerless Deer Hunting Permits can be used, two (2) Resident Landowner Archery Antlerless Deer Hunting Permits.*

*[(C)](B) In addition to the permits listed in subsection (1)[(B)](A), approved resident landowners with seventy-five (75) or more acres located in a single county or at least seventy-five (75) continuous acres bisected by a county boundary may obtain a maximum of two (2) no-cost Resident Landowner Firearms Antlerless Deer Hunting Permits. Resident landowners with at least seventy-five (75) acres in more than one (1) county must comply with landowner antlerless deer limits for each county.*

1. Approved resident landowners of at least seventy-five (75) acres may obtain one (1) no-cost Landowner Antlerless Deer Hunting Permit in the counties of: Andrew, Atchison, Butler, Carter, Dent, Douglas, Dunklin, Holt, Iron, Maries, Mississippi, New Madrid, Nodaway, Pemiscot, Phelps, Reynolds, Scott, Stoddard, Texas, Wayne, and Wright.

2. Approved resident landowners of at least seventy-five (75) acres may obtain two (2) no-cost Landowner Antlerless Deer Hunting Permits in the counties of: Adair, Audrain, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Franklin, Gasconade, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Howard, Howell, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lewis, Lincoln, Linn, Livingston, Macon, Madison, Marion, McDonald, Mercer, Miller, Moniteau, Monroe, Montgomery, Morgan, Newton, Oregon, Osage, Ozark, Perry, Pettis, Pike, Platte, Polk, Pulaski, Putnam, Ralls, Randolph, Ray, Ripley, Shannon, St. Charles, St. Clair, St. Francois, St. Louis, Ste. Genevieve, Saline, Schuyler, Scotland, Shelby, Stone, Sullivan, Taney, Vernon, Warren, Washington, Webster, and Worth.

*[(D)](C) Approved nonresident landowners may purchase the following reduced-cost Nonresident Landowner Deer Hunting Permits: one (1) Nonresident Landowner Firearms Any-Deer Hunting Permit and one (1) Nonresident Landowner Archer's Hunting Permit.*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-7.455 Turkeys: Seasons, Methods, Limits.** The commission proposes to amend section (4), remove subsection (4)(A), and re-letter subsequent subsections of this rule.

*PURPOSE:* This amendment simplifies the Wildlife Code by removing the landowner application process for turkey permits. That process will be moved to 3 CSR 10-7.412.

(4) Resident and nonresident landowners as defined in 3 CSR 10-20.805 may obtain landowner turkey hunting permits from any permit vendor, but only after application to and approval by the department in accordance with 3 CSR 10-7.412. [Landowner permits may be obtained only in accordance with this rule.]

[(A) Resident and nonresident landowners may apply for approval to obtain landowner turkey hunting permits on a form provided by the department. This application shall include the applicant's name, date of birth, domicile address, phone number, conservation identification number, e-mail, property acreage, landowner type, type of corporate ownership (if applicable), and parcel identification for the qualifying property. All applicants must submit an individual application. A new application for approval to obtain landowner turkey hunting permits must be submitted at least once every three (3) years or at any time when there is a change to any information required on the current application. Approval of applications received less than (60) sixty days prior to any turkey hunting season cannot be guaranteed. In addition to the application required by this rule, submission of proof of eligibility to receive landowner permits may also be required by the department at any time. Failure to submit satisfactory proof of eligibility at the request of the department shall be sufficient cause for denial of an application or withdrawal of approval to obtain landowner turkey hunting permits.]

[(B)](A) Approved resident landowners may obtain the following permits at no-cost: one (1) Resident Spring Turkey Hunting Permit, one (1) Resident Landowner Archer's Hunting Permit, and one (1) Resident Fall Turkey Hunting Permit.

[(C)](B) Approved nonresident landowners may obtain the following permits at a reduced-cost: one (1) Nonresident Landowner Spring Turkey Hunting Permit, one (1) Nonresident Landowner Archer's Hunting Permit, and one (1) Nonresident Landowner Fall Turkey Hunting Permit.

[(D)](C) All landowner turkey hunting permits are valid only on qualifying property. Regardless of department approval to obtain or purchase landowner permits, all landowner turkey hunting permits are valid only if the holder is a resident or nonresident landowner as

defined in 3 CSR 10-20.805 at the time the permit is used.

[(E)](D) All landowners who take turkey on landowner permits may also purchase and fill other turkey hunting permits but must abide by seasons, limits, and restrictions.

[(F)](E) All landowners taking turkeys on a landowner turkey hunting permit shall report the turkeys through the Telecheck Harvest Reporting System as required in this rule.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Dec. 15, 1975, effective Dec. 31, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-7.600 Deer Management Assistance Program.** The commission proposes to amend subsection (2)(A) of this rule.

*PURPOSE:* This amendment adds a Nonresident Landowner Firearms Any-Deer Hunting Permit to the list of prerequisites to be able to purchase a Nonresident Firearms Deer Management Assistance Program Permit.

(2) In addition to the take of deer in accordance with statewide deer hunting regulations, additional antlerless deer may be taken during the firearms deer hunting season on properties enrolled in the department-sponsored deer management assistance program in accordance with the following:

(A) Persons hunting or pursuing additional antlerless deer on enrolled properties must possess the prescribed firearms deer management assistance program permit. A firearms deer management assistance program permit may only be obtained by a person whose name, domicile address, e-mail, phone number, conservation identification number, Social Security number, and the enrolled property identification number has been submitted to the department by a participating landowner with property enrolled in the program. [ JA Nonresident Firearms Any-Deer Hunting Permit, **Nonresident Landowner Firearms Any-Deer Hunting Permit**, or a Nonresident Managed Deer Hunting Permit is required of nonresidents as a prerequisite to this permit;

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 28, 2018, effective March 1, 2019. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,  
Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-7.700 Elk Hunting Seasons: General Provisions.** The commission proposes to remove section (1), renumber subsequent sections, and amend new section (2) and new sub-section (4)(B) of this rule.

**PURPOSE:** This proposed amendment eliminates the landowner elk permit process, removes the overall elk permit application process from this rule and moves it to 3 CSR 10-7.710, and clarifies which muzzleloading firearms may be used to take elk.

*[(1) The current Fall Deer & Turkey Hunting Regulations and Information booklet is hereby incorporated in this Code by reference. This booklet is published annually in August by, and a printed copy can be obtained from, the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and is also available online at [www.missouriconservation.org](http://www.missouriconservation.org). This rule does not incorporate any subsequent amendments or additions.]*

*[(2)](1) Elk may be pursued, taken, killed, possessed, or transported only as permitted in this Code.*

*[(3)](2) Persons hunting or pursuing elk must possess a prescribed elk hunting permit. [Missouri residents, as defined in 3 CSR 10-5.220, may apply for a Resident Antlered Elk Hunting Permit. Approved resident landowners, as defined in 3 CSR 10-7.710, may apply for a Resident Landowner Antlered Elk Hunting Permit.*

*(A) Quotas for elk hunting permits are established annually by the Conservation Commission. For the 2020 season, five (5) elk hunting permits will be awarded. Of the five (5) total permits, one (1) Resident Landowner Antlered Elk Hunting Permit will be awarded to an approved resident landowner, as defined in 3 CSR 10-7.710, and four (4) Resident Antlered Elk Hunting Permits will be awarded to Missouri residents, as defined in 3 CSR 10-5.220. The application period will be from May 1-31 annually and results will be available July 1 annually.*

*(B) Permit Draw.*

*1. Application fee for Resident Antlered Elk Hunting Permit: ten dollars (\$10).*

*2. Only one (1) application is allowed per year, except that qualifying resident landowners (see 3 CSR 10-7.710) may apply for one (1) Resident Antlered Elk Hunting Permit and one (1) Resident Landowner Antlered Elk Hunting Permit annually. Resident landowners can only possess one (1) elk hunting permit annually.*

*3. Only one (1) person is allowed per application.*

*4. Persons drawn for a Resident Antlered Elk Hunting Permit will not be eligible to apply for that permit again for ten (10) years.]*

*[(4)](3) Elk may be pursued or taken only from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset.*

*[(5)](4) Elk Hunting Methods.*

*(A) Archery: longbows, recurve bows, compound bows, crossbows, and atlatl.*

*(B) Muzzleloader: [muzzleloading or cap and-ball firearms, .40 caliber or larger, not capable of being loaded from the breech] muzzleloading firearms as defined in 3 CSR 10-20.805, .40 caliber or larger.*

*(C) Any legal method: archery and muzzleloader methods; atlatl; shotguns; handguns or rifles firing expanding-type centerfire ammunition; and air-powered guns, .40 caliber or larger, charged only from an external high compression power source (external hand pump, air tank, or air compressor).*

*(D) Prohibited, in use or possession:*

*1. Methods restricted by local ordinance;*

*2. Self-loading firearms with capacity of more than eleven (11) cartridges in magazine and chamber combined with the exception of concealable firearms, as defined in Chapter 571, RSMo. Firearms possessed under this exception may not be used to take wildlife while elk hunting;*

*3. Ammunition propelling more than one (1) projectile at a single discharge, such as buckshot;*

*4. Full hard metal case projectiles;*

*5. Fully automatic firearms; and*

*6. Electronic calls or electronically activated calls.*

*[(6)](5) Elk may not be hunted, pursued, taken, or killed—*

*(A) While in a stream or other body of water;*

*(B) From a boat with a motor attached;*

*(C) With the aid of a motor-driven land conveyance or aircraft;*

*(D) With the aid of dogs, in use or possession;*

*(E) With the aid of artificial light or night vision equipment;*

*(F) Within any area enclosed by a fence greater than seven feet (7') in height that could contain or restrict the free range of elk. Exceptions are provided in other rules or by written authorization of the director; and*

*(G) With the aid of bait (grain or other feed placed or scattered so as to constitute an attraction or enticement to elk). Scents and minerals, including salt, are not regarded as bait; however, mineral blocks with food additives are prohibited. An area is considered baited for ten (10) days following complete removal of bait. A person shall be in violation of this provision if they take or attempt to take elk by the aid of bait, where the person knows or reasonably should know the area is or has been baited. It is illegal to place bait in a way that causes others to be in violation of the baiting rule.*

*[(7)](6) During the firearm portion of the elk hunting season, all persons hunting elk and their companions, must wear a cap or hat and a shirt, vest, or coat of the color commonly known as hunter orange, which must be plainly visible from all sides. Camouflage orange garments do not meet this requirement.*

*[(8)](7) Hunters who kill or injure an elk must make a reasonable effort to retrieve and tag it, but this does not authorize trespass.*

*[(9)](8) Hunters who take an elk shall void their permit immediately by notching the month and date of harvest and shall keep the elk separate or distinctly identifiable from elk taken or possessed by another. When the elk is not personally attended and prior to reporting through the Telecheck Harvest Reporting System, the voided permit or proper label shall be attached to the elk. Elk may be possessed*



and transported only by the taker until reported through the Telecheck Harvest Reporting System. All elk taken shall be accurately reported by the taker or in the taker's immediate presence through the Telecheck Harvest Reporting System by 10:00 p.m. on the day taken. The Telecheck confirmation number shall be recorded immediately on the elk hunting permit. The elk shall remain intact, as a field-dressed carcass, or be quartered with evidence of sex retained until the elk is reported through the Telecheck Harvest Reporting System. All elk shall be reported through the Telecheck Harvest Reporting System prior to processing (except field dressing or quartering as specified in this section) or being removed from the state. After reporting through the Telecheck Harvest Reporting System, elk may be possessed, transported, and stored by anyone when labeled with the permit or any label that includes the full name and address of the taker, date taken, and Telecheck confirmation number.

[(10)](9) Elk (or parts thereof) reported in accordance with established procedures, when labeled with the full name and address of the taker, the date taken, and the Telecheck confirmation number of the elk, may be possessed, transported, and stored by anyone. Commercially processed elk meat may be donated to not-for-profit charitable organizations under guidelines established by the director.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed June 28, 2019, effective Dec. 30, 2019. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 7—Wildlife Code: Hunting: Seasons, Methods,**  
**Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-7.710 Elk: [Landowner Privileges] Application and Draw Process.** The commission proposes to amend the title, remove sections (1), (2), and (3), and add new section (1) to this rule.

*PURPOSE: This amendment removes the landowner elk hunting zone and adds and amends the application and draw process for elk hunting in Missouri from 3 CSR 10-7.700.*

[(1) Approved resident landowners, as defined in 3 CSR 10-20.805, with twenty (20) or more contiguous acres within the resident landowner permit zone can apply for a Resident Landowner Antlered Elk Hunting Permit, but only after application to and approval by the department. Landowner applications and permits may be obtained only in accordance with this rule.

(A) Resident Landowner Elk Hunting Zone: Shall be within

*the area beginning at the intersection of Mo. Hwy. W and U.S. Hwy. 60; east on U.S. Hwy. 60 to Oliver St.; west on Oliver St. to Sycamore St.; West on Sycamore St. to James St.; west on James St. to Main St.; north on Main St. to Mo. Hwy D; north on Mo Hwy. D to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 106; west on Mo. Hwy. 106 to Mo. Hwy. B; north on Mo. Hwy. B to County Rd. 776; west on County Rd. 776 to County Rd. 242; west on County Rd. 242 to County Rd. 106-B; east on County Rd. 106-B to County Rd. 106-235; south on County Rd. 106-235 to County Rd. P-235; south on County Rd. P-235 to Mo. Hwy. V; south on Mo. Hwy. V to Mo. Hwy. 106; east on Mo. Hwy. 106 to Mo. Hwy. H; south on Mo. Hwy. H to County Rd. H-563; south on County Rd. H-563 to County Rd. W-568; south on County Rd. W-568 to Mo. Hwy. W; south on Mo. Hwy. W to U.S. Hwy. 60.*

(B) Resident landowners may establish eligibility to apply for a landowner elk hunting permit on a form provided by the department. This application shall include the applicant's name, date of birth, domicile address, phone number, conservation identification number, e-mail, property acreage, landowner type, type of corporate ownership (if applicable), and parcel identification for the qualifying property. All applicants must submit an individual application. A new application to establish eligibility for approval to apply for a landowner elk hunting permit, must be submitted at least once every three (3) years or at any time when there is a change to any information required on the current application. Approval of applications received less than (60) sixty days prior to any elk hunt application period cannot be guaranteed. In addition to the application required by this rule, submission of proof of eligibility to receive landowner permits may also be required by the department at any time. Failure to submit satisfactory proof of eligibility at the request of the department shall be sufficient cause for denial of an application or withdrawal of approval to obtain landowner elk hunting permits. Approved landowner applications as defined in 3 CSR 10-7.434 or 3 CSR 10-7.455 for obtaining no-cost landowner deer or turkey permits may satisfy this requirement.

(C) Approved resident landowners are limited to one (1) landowner application per year.

1. Qualifying acreage must be within the resident landowner elk hunting zone.

2. There is no cost for approved landowners to apply.

3. If drawn, approved landowners may obtain the permit at a cost of fifty dollars (\$50).

(2) All landowner elk hunting permits are valid only on qualifying property and are nontransferable.

(3) All landowners who receive a Resident Landowner Antlered Elk Hunting Permit are not eligible to receive a Resident Antlered Elk Hunting Permit in the same year. A landowner may take only one (1) antlered elk annually.]

(1) Missouri residents, as defined in 3 CSR 10-5.220, may apply for elk hunting permits.

(A) Quotas for elk hunting permits are established annually by the Conservation Commission. At least ten percent (10%) of the Resident Antlered Elk Hunting Permit quota will be awarded annually to approved resident landowners, as defined in 3 CSR 10-20.805, whose qualifying property is in Carter, Reynolds, or Shannon Counties. If the number of qualifying landowner applicants is less than the percentage of the permits allocated for landowners, that portion of the quota not issued to a qualifying landowner will be reallocated to other applicants.

(B) To be eligible for the Resident Antlered Elk Hunting

Permit(s) awarded to approved resident landowners, an application must have been submitted to and have been approved by the department as described in 3 CSR 10-7.412 prior to applying for a Resident Antlered Elk Hunting Permit.

**(C) Permit Draw.**

1. The application period will be from May 1-31 annually and results will be available by July 1 annually.
2. Application fee for Resident Antlered Elk Hunting Permit: ten dollars (\$10).
3. Only one (1) application is allowed per year.
4. Only one (1) person is allowed per application.
5. Persons drawn for a Resident Antlered Elk Hunting Permit will not be eligible to apply for that permit again for ten (10) years.
6. Permits are nontransferable.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed June 28, 2019, effective Dec. 30, 2019. Amended: Filed Sept. 4, 2020.*

*PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an estimated seventeen thousand dollars (\$17,000) for a one- (1-) time payment to the vendor to modify the licensing platform.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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: Department of Conservation  
Division Title: Division 10 – Conservation Commission  
Chapter Title: Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

Rule Number and Name:	3 CSR 10-7.710 Elk: [ <i>Landowner Privileges</i> ]Application and Draw Process.
Type of Rulemaking:	Proposed Amendment

- II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Conservation	\$17,000 – one-time cost

- III. WORKSHEET

\$17,000 (estimated overall total cost of vendor payments to modify the department's licensing platform system)

- IV. ASSUMPTIONS

This is a one-time estimated payment to vendor to modify the department's licensing platform. No additional costs associated with this change are anticipated for the life of the rule.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,  
Limits**

**PROPOSED RULE**

**3 CSR 10-7.900 Black Bear Hunting Season: General Provisions**

*PURPOSE: This rule establishes the general provisions for hunting black bear.*

(1) Black bears may be pursued, taken, possessed, or transported only as permitted in this Code.

(2) Persons hunting or pursuing black bears must possess a prescribed black bear hunting permit.

(3) The black bear hunting season will begin the third Monday in October and will run for ten (10) consecutive days or until the Black Bear Management Zone-specific harvest quota is reached. If the zone-specific harvest quota is reached prior to the close of the black bear hunting season, that zone will be closed to hunting the following day. If the harvest is equivalent to or exceeds eighty percent (80%) of the Black Bear Management Zone-specific harvest quota, the director may close hunting within that Black Bear Management zone on the following day.

(4) Black bears may be pursued or taken only from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset.

(5) Black bear hunting permits are valid only for the Black Bear Management Zone specified on the permit. Black Bear Management Zone boundaries are as follows:

(A) Black Bear Management Zone One shall be that portion of Missouri west of a line running north from the Arkansas border on U.S. Highway 63 to U.S. Highway 60; west on U.S. Highway 60 to MO-360; west on MO-360 to Interstate 44; west on Interstate 44 to the Oklahoma border;

(B) Black Bear Management Zone Two shall be that portion of Missouri east of a line running north from the Arkansas border on U.S. Highway 63 to Interstate 44; east on Interstate 44 to State Highway 47; north on State Highway 47 to the Missouri River; east along the Missouri River to the Illinois border; and

(C) Black Bear Management Zone Three shall be that portion of Missouri south of a line running east from the Kansas border along the Missouri River to State Highway 47; south on State Highway 47 to Interstate 44; west on Interstate 44 to U.S. Highway 63; south on U.S. Highway 63 to U.S. Highway 60; west on U.S. Highway 60 to MO-360; west on MO-360 to Interstate 44; west on Interstate 44 to the Oklahoma border.

(6) Black Bear Management Zone-specific harvest quotas are established annually by the Conservation Commission.

(7) Black Bear Hunting Methods.

(A) Archery: longbows, recurve bows, compound bows, and crossbows. Atlatls may not be used to take black bear.

(B) Muzzleloader: muzzleloading firearms as defined in 3 CSR 10-20.805, .40 caliber or larger.

(C) Any legal method: archery as described in 3 CSR 10-7.900 (7)(A) and muzzleloader methods; shotguns; handguns or rifles firing expanding-type centerfire ammunition; and air-powered guns, .40 caliber or larger, charged only from an external high compression power source (external hand pump, air tank, or air compressor).

(D) Prohibited, in use or possession:

1. Methods restricted by local ordinance;
2. Self-loading firearms with capacity of more than eleven (11)

cartridges in magazine and chamber combined with the exception of concealable firearms, as defined in Chapter 571, RSMo. Firearms possessed under this exception may not be used to take wildlife while black bear hunting;

3. Ammunition propelling more than one (1) projectile at a single discharge, such as buckshot;

4. Full hard metal case projectiles;

5. Fully automatic firearms; and

6. Electronic calls or electronically activated calls.

(8) Black bear may not be hunted, pursued, taken, or killed—

(A) While in a stream or other body of water;

(B) From a boat with a motor attached;

(C) With the aid of a motor-driven land conveyance or aircraft;

(D) With the aid of dogs, in use or possession;

(E) With the aid of artificial light or night vision equipment;

(F) With the aid of telemetry equipment, in use or possession;

(G) With the aid of bait. Bait is considered any type of food lure (including, but not limited to: grain, feed, bird food, pet food, food produced or manufactured for consumption by humans or domestic animals, or concentrated food powder which may be consumed or attempted to be consumed by black bears) which is placed or scattered so as to constitute an enticement to black bears. Scents and minerals, including salt, are not regarded as bait; however, mineral blocks with food additives are prohibited. An area is considered baited for ten (10) days following complete removal of bait. A person shall be in violation of this provision if they take or attempt to take black bears by the aid of bait, where the person knows or reasonably should know the area is or has been baited. It is illegal to place bait in a way that causes others to be in violation of the baiting rule.

(9) Black bears that have taken refuge in a den may not be disturbed, pushed, harassed, or taken in any manner by any person acting either singly or as one (1) of a group of persons.

(10) Only lone black bears may be taken. No person shall take a black bear they know or reasonably should have known is in the presence of one (1) or more other bears, including female black bears with cubs.

(11) During the black bear hunting season, all persons hunting black bears and their companions must wear a cap or hat and a shirt, vest, or coat of the color commonly known as hunter orange, which must be plainly visible from all sides. Camouflage orange garments do not meet this requirement.

(12) Hunters who kill or injure a black bear must make a reasonable effort to retrieve and tag it, but this does not authorize trespass.

(13) Hunters who take a black bear shall void their permit immediately by notching the month and date of harvest and shall keep the black bear separate or distinctly identifiable from black bears taken or possessed by another person. When the black bear is not personally attended and prior to reporting through the Telecheck Harvest Reporting System, the voided permit or proper label shall be attached to the black bear. Black bears may be possessed and transported only by the taker until reported through the Telecheck Harvest Reporting System. Any black bear taken shall be accurately reported by the taker or in the taker's immediate presence through the Telecheck Harvest Reporting System by 10:00 p.m. on the day taken. The Telecheck confirmation number shall be recorded immediately on the black bear hunting permit. Black bears shall remain intact, as a field-dressed carcass, or be quartered with evidence of sex retained, until the black bear is reported through the Telecheck Harvest Reporting System. All black bears shall be reported through the Telecheck Harvest Reporting System prior to processing (except field dressing or quartering as specified in this section) or being removed from the state. After reporting through the Telecheck

Harvest Reporting System, black bears may be possessed, transported, and stored by anyone when labeled with the permit or any label that includes the full name and address of the taker, date taken, and Telecheck confirmation number.

(14) Regardless of the state of harvest, extracted black bear gallbladders may not be transported into or within Missouri. Black bear gallbladders may not be bought, sold, offered for sale, transferred, or given away.

(15) Black bears (or parts thereof excluding the gall bladder) reported in accordance with established procedures, when labeled with the full name and address of the taker, the date taken, and the Telecheck confirmation number of the black bear, may be possessed, transported, and stored by anyone.

(16) Hunters who take a black bear shall submit either an upper or lower premolar from the harvested bear to the department within ten (10) days of harvest. The tooth required by this section shall be mailed, shipped, or delivered in-person to: Furbearer Program, Missouri Department of Conservation, 3500 East Gans Road, Columbia, MO 65201. Regardless of the method of submission, the tooth must be placed in an envelope and labeled with the full name and address of the taker, the date taken, and the Telecheck confirmation number of the black bear. If sent via the U.S. Postal Service or other common carrier, the envelope containing the tooth must be placed inside a separate mailing envelope. All submissions post-marked within ten (10) days of harvest, shall be deemed to have complied with the provisions of this section.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 7—Wildlife Code: Hunting: Seasons, Methods,**  
**Limits**

**PROPOSED RULE**

**3 CSR 10-7.905 Black Bear Hunting Season: Application and Draw Process**

*PURPOSE: This rule establishes the application and draw process for black bear hunting in Missouri.*

(1) Missouri residents, as defined in 3 CSR 10-5.220, may apply for black bear hunting permits.

(A) Bear Management Zone-specific permit quotas for black bear hunting permits are established annually by the Conservation Commission. At least ten percent (10%) of the Resident Black Bear Hunting Permit Black Bear Management Zone-specific permit quota

will be awarded annually to approved resident landowners, as defined in 3 CSR 10-20.805, whose qualifying property is in the specific Black Bear Management Zone for which they are applying. If the number of qualifying landowner applicants is less than the percentage of the permits allocated for landowners, that portion of the quota not issued to a qualifying landowner will be reallocated to other applicants.

(B) To be eligible for the Resident Black Bear Hunting Permit(s) awarded to approved resident landowners, an application must have been submitted to and have been approved by the department as described in 3 CSR 10-7.412 prior to applying for a Resident Black Bear Hunting Permit.

(C) Permit Draw.

1. The application period will be from May 1-31 annually and results will be available by July 1 annually.

2. Application fee for Resident Black Bear Hunting Permit: ten dollars (\$10).

3. Only one (1) application is allowed per year.

4. Only one (1) person is allowed per application.

5. Permits are nontransferable.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Sept. 4, 2020.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated thirty-six thousand dollars (\$36,000) in the aggregate to modify the department's licensing platform system.*

*PRIVATE COST: This proposed rule will cost private entities one hundred forty-five thousand dollars (\$145,000) annually in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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: Department of Conservation  
Division Title: Division 10 – Conservation Commission  
Chapter Title: Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

Rule Number and Name:	3 CSR 10-7.905 Black Bear Hunting Season: Application and Draw Process
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Conservation	\$36,000 – one-time cost

III. WORKSHEET

\$36,000 (estimated overall total cost of vendor payments to modify the department's licensing platform system)

IV. ASSUMPTIONS

This is a one-time payment to modify the MDC Suite, including MO Hunting, Agent Online, and Agent Mobile. No additional costs associated with this change are anticipated for the life of the rule.

**FISCAL NOTE  
PRIVATE COST**

- I. **Department Title: Department of Conservation**  
**Division Title: Division 10 – Conservation Commission**  
**Chapter Title: Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

<b>Rule Number and Name:</b>	<b>3 CSR 10-7.905 Black Bear Hunting Season: Application and Draw Process</b>
<b>Type of Rulemaking:</b>	Proposed Rule

- II. **SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
<b>Individuals applying for black bear permit.</b>	<b>Initial annual aggregate estimate of \$145,000. The number of applicants, however, will be variable from year to year.</b>

- III. **WORKSHEET**

14,500 (estimated number of applicants for black bear hunting permit) X \$10 (application fee) = \$145,000 (initial annual aggregate estimate. The number of applicants, however, will be variable from year to year)

- IV. **ASSUMPTIONS**

Although part of the greater Ouachita bear population, Arkansas doesn't have a specific black bear hunting permit. Black bear hunting is allowed on the overall Arkansas hunting permit. Arkansas, therefore, couldn't be used to estimate the number of applicants for a bear draw. Oklahoma is also part of the greater Ouachita bear populations but does have a specific black bear hunting permit. However, Oklahoma doesn't have a draw process for black bear permits. In 2019, Oklahoma issued 496 black bear hunting permits in 2019; which is approximately <0.01% of the total number of individual deer hunters. Florida issued 3,724 resident black bear permits in 2015, or approximately 3% of their total individual deer hunters. Maryland provided an estimate of approximately 5% of their hunters apply for the black bear permit draw. The average percentage of black bear permits was less than 3% of the total number of deer hunters across Oklahoma, Florida, and Maryland.

In Missouri, there were 484,347 deer hunters in 2019. Therefore, we estimate 14,500 (3% x 483,347) applicants for the black bear hunting permits during the inaugural year. The estimated number of applicants does not reflect the estimated permit availability or a harvest quota, both of which will be lower in number. The number of applicants will be variable from year to year. Although a draw is not used in Arkansas and Oklahoma, it is common place across the United States. In addition, application fees are common place with permit draws. To not burden citizens with high permit prices we are utilizing an application fee. Application fees are also necessary given the expected high interest and anticipated increase in overhead of administering this new hunting program in Missouri.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 9—Wildlife Code: Confined Wildlife: Privileges,**  
**Permits, Standards**

**PROPOSED AMENDMENT**

**3 CSR 10-9.625 Field Trial Permit.** The commission proposes to amend section (5) of this rule.

*PURPOSE:* This proposed amendment adds the black bear hunting season to the period when field trial permits will not be valid.

(5) Except as otherwise provided in this rule, permits will not be valid for hound field trials during or five (5) days prior to the spring turkey, **black bear**, firearms deer, or firearms elk hunting season except on established field trial areas. Permits for raccoon field trials will be valid during nighttime hours and provide for casting no more than four (4) dogs at one (1) time during or five (5) days prior to the spring turkey hunting season and during all but the November portion of the firearms deer hunting season and in open counties during the firearms portion of the elk hunting season. In field trials under permit, wildlife not prohibited in 3 CSR 10-7.410 may be chased by dogs under control, but may be pursued and taken only during the open seasons and only by persons possessing a valid hunting permit, except as provided in section (6) of this rule. The sponsoring organization shall issue identification bearing the field trial permit number to all persons without a valid hunting permit who enter dogs in a trial; provided, that this identification shall not be required for trials held entirely on one (1) contiguous tract of land where an agent of the department is provided with a complete list of the names and addresses of all participants before the trial.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 27, 1975, effective Dec. 31, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 10—Wildlife Code: Commercial Permits:**  
**Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-10.707 Resident Fur Dealer's Permit.** The commission proposes to amend this rule.

*PURPOSE:* The proposed amendment maintains the ability of fur dealers to buy, sell, possess, transport and ship the pelts of bears legally harvested outside of Missouri.

To buy, sell, possess, process, transport, and ship the pelts and carcasses of furbearers **and the pelts of bears legally harvested outside of Missouri** from July 1 through June 30. Permits issued to a firm, organization, or partnership for individual or itinerant use shall include the names of no more than four (4) resident users. Fee: one hundred dollars (\$100).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 10—Wildlife Code: Commercial Permits:**  
**Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-10.708 Nonresident Fur Dealer's Permit.** The commission proposes to amend this rule.

*PURPOSE:* This proposed amendment maintains the ability of fur dealers to buy, sell, possess, transport and ship the pelts of bears legally harvested outside of Missouri.

To buy, sell, possess, process, transport, and ship the pelts and carcasses of furbearers **and the pelts of bears legally harvested outside of Missouri** from July 1 through June 30. Nonresident fur dealers shall conduct business only at the locations in Missouri specified on the permit, with resident fur dealers at their business location and at established fur auction sites. Fee: three hundred dollars (\$300).

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. Original rule filed March 6, 2006, effective Aug. 30, 2006. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 10—Wildlife Code: Commercial Permits:**  
**Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-10.715 Resident and Nonresident Fur Dealers: Reports, Requirements.** The commission proposes to amend sections (1), (2), (4), (5), and (7) of this rule.

*PURPOSE: This proposed amendment clarifies reporting and other requirements to be met by fur dealers and fur buyers transacting in pelts of black bears legally harvested outside of Missouri.*

(1) Each fur dealer shall keep an up-to-date, accurate record of all furbearer pelts **and pelts of black bears legally harvested outside of Missouri** purchased, sold, consigned, or stored. For each transaction, the seller's name, address, and permit number shall be recorded immediately in either a fur record book furnished or a form approved by the department. All such records and furs shall be made available for inspection by an authorized agent of the department at any reasonable time.

(2) Each fur dealer shall submit annually a report on either forms furnished or those approved by the department. Printed copies of these forms can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at [www.missouriconservation.org](http://www.missouriconservation.org). All fur dealers' reports shall include all transactions in furbearer pelts **and pelts of black bears legally harvested outside of Missouri** for the twelve (12) months preceding April 10 of the current year and an inventory of fur held in storage. Such reports shall be submitted by April 20.

(4) Fur dealers and employees specified on their permit, who are buying, selling, possessing, or transporting pelts or carcasses of furbearers **or pelts of black bears legally harvested outside of Missouri** shall have a copy of the prescribed permit in his/her possession.

(5) Furbearer pelts **and pelts of black bears legally harvested outside of Missouri** may be shipped or transported into Missouri without a Missouri fur dealer permit for consignment or sale at an established fur auction site or to the location specified on a Missouri fur dealer permit if the pelts are accompanied by the appropriate permit or other proof of legality in the state of origin.

(7) Fur dealers may consign pelts or carcasses of furbearers **and pelts of black bears legally harvested outside of Missouri** for storage or processing at locations other than that specified on the permit provided the consignee is identified in the fur record book.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 30, 1979, effective Jan. 1, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's*

*website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 10—Wildlife Code: Commercial Permits:**  
**Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-10.732 Tag and Release Fishing Promotion Permit.** The commission proposes to amend subsections (2)(B), (2)(C), (2)(D), and (2)(F), remove subsection (2)(G), and re-letter the subsequent subsection of this rule.

*PURPOSE: This amendment adds other fish to the list of fish which can be used on a tag and release fishing promotion permit. This amendment also removes specific listed water bodies for these events and allows this activity on all impoundments. The restriction of not allowing a fee for participation in an event which uses tagged and released fish is removed from the rule. This amendment also adds punctuation to subsections (2)(D) and (2)(F).*

(2) A tag and release fishing promotion permit authorizes the holder to tag and release one (1) fish into an impoundment of the state, in accordance with the following:

(A) Only one (1) valid permit per impoundment may be possessed by the holder at any one time. No more than two (2) permits shall be valid for the same impoundment at any one time./;

(B) Only crappie, black bass, [and] catfish [species], **and other fish as defined in 3 CSR 10-20.805** may be tagged./;

(C) Events shall be restricted to [Lake of the Ozarks, Stockton Lake, Table Rock Lake and Truman Lake] **impoundments**. Tag and release fishing promotion permits may be further restricted for areas within five (5) miles of any portion of an impoundment with an active department fishery research project./;

(D) Fish to be tagged shall be obtained from the impoundment specified in the permit in compliance with established seasons, methods, and limits./;

(E) Fish shall be tagged in the presence of an agent of the department using a technique approved by the department./;

(F) Contest rules shall comply with established fishing seasons, methods, and limits./; **and**

[[G) *There shall be no fee, registration or other consideration beyond a valid Missouri fishing permit as required by this Code to enter or participate in the event.*]

[[H)](G) Maximum duration of any event shall be thirty (30) days.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed March 24, 2003, effective Aug. 30, 2003. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 10—Wildlife Code: Commercial Permits:  
Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-10.744 Commercial [Deer] Game Processing: Permit, Privileges, Requirements.** The commission proposes to amend the title and sections (1), (2), and (3) of this rule.

*PURPOSE: This proposed amendment changes the name from Commercial Deer Processors Permit to Commercial Game Processors Permit due to the additional record keeping and general requirements related to the addition of black bear processing and meat. The proposed amendment adds black bears to the list of species that commercial deer processors can process and sets requirements for those establishments processing black bear meat.*

(1) To commercially process and store legally acquired cervids **and black bears** taken from the wild stock of the state at the specific location indicated on the permit. Fee: twenty-five dollars (\$25).

(2) The commercial processor shall post a notice and inform patrons of the provisions of this rule and shall keep accurate records of all cervids **and black bears** processed and stored. The commercial processor shall dispose of all cervid **and black bear** carcasses (or parts thereof) not returned to patrons in a sanitary landfill or transfer station permitted by the Missouri Department of Natural Resources, and retain proof of disposal. The records of all cervids **and black bears** processed and stored, and proof of disposal, shall be retained for twelve (12) months. All records and stored *[deer]* cervids **and black bears** shall be made available for inspection by an authorized agent of the department at any reasonable time.

(3) For the purposes of processing specialty cervid **and black bear** meats, commercial processors are exempt from provisions of 3 CSR 10-4.137. For purposes of storing specialty cervid **and black bear** meats, commercial processors are exempt from provisions of 3 CSR 10-4.137 and 3 CSR 10-4.140(2), but only from September 15 through March 31. These exemptions do not apply to raw, packaged venison **or black bear meat**.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed April 28, 1992, effective Dec. 3, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 10—Wildlife Code: Commercial Permits:  
Seasons, Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-10.767 Taxidermy; Tanning: Permit, Privileges, Requirements.** The commission proposes to amend sections (4) and (6) of this rule.

*PURPOSE: This proposed amendment adds clarification for black bear regarding taxidermy permit, privileges, and requirements.*

(4) Legally taken and possessed furbearers **and black bears legally harvested outside of Missouri** may be purchased by licensed taxidermists or tanners, **but** only from the taker or a licensed fur dealer, and only for mounting or tanning. Only mounted or tanned specimens, and not raw **furbearer or black bear** pelts, may be sold by taxidermists and tanners.

(6) *[Raw pelts held under this permit after possession season for pelts shall not enter the raw fur market.]* All wildlife held by a licensed taxidermist or tanner shall be identifiable to the consignor. Unused parts of wildlife may be disposed of or sold, **except unused parts of a black bear**, by licensed taxidermists or tanners, but not for human consumption. Federal regulations apply to the mounting of migratory birds and endangered species.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 27, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.110 General Provisions.** The commission proposes to amend subsection (1)(H) of this rule.

*PURPOSE: This amendment adds Lon Sanders Canyon Conservation Area to the list of areas where possession of food and beverage containers made of glass is prohibited.*

(1) Department areas may be used only as authorized by this chapter, except these rules shall not restrict department employees or their designees when conducting official events or activities. Department areas may be used only in accordance with the following.

(H) *[On Amidon Memorial Conservation Area within the Castor River Shut-Ins Natural Area, possession of food and beverage containers made of glass is prohibited.]* Possession of food and beverage containers made of glass are prohibited on the following conservation areas:

1. Amidon Memorial Conservation Area within the Castor River Shut-Ins Natural Area; and

## 2. Lon Sanders Canyon Conservation Area.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 11—Wildlife Code: Special Regulations for Department Areas

#### PROPOSED RULE

#### 3 CSR 10-11.111 Commercial Use

*PURPOSE: This rule establishes requirements and conditions for allowing commercial use on department areas.*

(1) Certain commercial uses are permitted on department areas and require a commercial use permit or a special use permit as provided in this chapter. Commercial use is defined as any activity that directly or indirectly results in financial benefit or gain, or where money is exchanged in connection with the activity.

(2) Permits for commercial use of department areas may be obtained only upon satisfaction of all requirements imposed by this Code, including payment of fees when required. Permits for commercial use of department areas are non-transferable and no permit may be loaned, falsified, altered, or misrepresented in any manner.

(3) Annual commercial use permits are valid from July 1 through June 30 of the prescribed permit year. All other permits for commercial use of department areas are valid only for the dates listed on the permit. The acceptance of a permit authorizing commercial use of department areas shall constitute an acknowledgement of the duty to comply with the provisions of this Code. Failure to comply with the conditions of any permit authorizing commercial use of department areas shall be sufficient cause for the department to revoke the current permit and deny applications for future permits. The commission may suspend, revoke, or deny a permit or privilege for cause, but not until an opportunity has been afforded for a hearing before the commission or its authorized representative. The hearings under this section shall be a contested case pursuant to Chapter 536, RSMo, and any person aggrieved by a final decision shall be entitled to judicial review as provided in Chapter 536, RSMo.

(4) Photography/Videography. A commercial use permit is required for any person or entity engaged in commercial photography or videography, such as professional photography, commercials, advertising, promotionals, television, or documentaries. No commercial

use permit is required for news agencies. A permit may be denied if the use is determined to be incompatible with the department's mission, in conflict with other uses, or potentially harmful to persons or property. Permit fees may be waived for conservation-related organizations where the project will promote or benefit conservation interests. A separate approval is required when using an unmanned aerial system (UAS) or drone for photography or videography. Liability insurance may be required for any commercial photography or videography permit.

(A) A Commercial Photography Permit is required for commercial photographers taking photographs on department areas. Fee: one-hundred dollars (\$100) annually.

1. Photographers using the Commercial Photography Permit must also possess an approved special use permit for photography involving special accommodations, use of an unmanned aerial system (UAS) or drone, use of props, when more than ten (10) people are involved, or on department lands associated with nature and education centers, staffed ranges, offices, and on the following department areas:

- A. Burr Oak Woods Conservation Area;
- B. Busch (August A.) Memorial Conservation Area;
- C. Reed (James A.) Memorial Wildlife Area; and
- D. Rockwoods Reservation.

(B) A Commercial Videography Permit is required for all commercial videography on department areas. Fee: five-hundred dollars (\$500) per day.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Sept. 4, 2020.*

*PUBLIC COST: It is anticipated this proposed rule will cost the Department of Conservation approximately one thousand dollars (\$1,000) in staff time and financial resources annually. The costs are averaged to account for creating and then operating the system for approving, issuing, and tracking permits. It is anticipated it will not cost other state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities more than five hundred dollars (\$500) in the aggregate. Based on past use when no permit was required for the annual limited use commercial photography permit the Department of Conservation anticipates no more than fifty (50) permits will be issued for a maximum of five thousand dollars (\$5,000). Based on past requests for commercial photography/videography the Department anticipates fewer than ten (10) permits will be issued on an annual basis and average two (2) days each for a maximum of ten thousand dollars (\$10,000). However, because the change will require a permit for simple commercial photography where no permit has been required and the change will provide additional opportunity for larger scale commercial photography/videography it is unknown how many permits will be issued.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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: Department of Conservation**  
**Division Title: Division 10 – Conservation Commission**  
**Chapter Title: Chapter 11—Wildlife Code: Special Regulations for Department Areas**

<b>Rule Number and Name:</b>	3 CSR 10-11.111 Commercial Use
<b>Type of Rulemaking:</b>	Proposed Rule

II. **SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost of Compliance in the Aggregate</b>
Department of Conservation	\$1,000 – approximate annual cost

III. **WORKSHEET**

50 simple permits x 15 minutes each = 12.5 hours annually x \$18/hour = \$225 for simple permit

10 long permits x 90 minutes each (includes Management Biologist/Forester review and approval) = 15 hours annually x \$22/hour = \$330 for long permit

\$555 annually in staff time plus additional costs (\$445) for creating and tracking long term = \$1,000 annually

IV. **ASSUMPTIONS**

It is assumed permit issuance will commence at the estimated numbers listed and stay consistent over time.

FISCAL NOTE  
PRIVATE COST

- I. Department Title: Department of Conservation  
Division Title: Division 10 – Conservation Commission  
Chapter Title: Chapter 11—Wildlife Code: Special Regulations for Department Areas

Rule Number and Name:	3 CSR 10-11.111 Commercial Use
Type of Rulemaking:	Proposed Rule

## II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Individuals utilizing the new permit.	\$15,000- approximate annual cost

## III. WORKSHEET

50 simple permits x \$100 = \$5,000/annually

10 long permits (two day permits) x (\$500 x 2 days) = \$10,000/annually

Staff reviewed other agencies within and outside the state to determine a price structure proposal. Within the state a similar pricing was found with Missouri Department of Natural Resources. This agency has a beginning price of \$500/day for videography and depending on the amount of staff time or the complicated nature of the request the price can increase. Another example within the state occurs with St Louis County parks. They charge \$100/hour with a minimum of three hours for each videography permit.

Agencies reviewed outside the state of Missouri have a sliding scale and is dependent on the number of people involved and ranges from \$25/day for an individual up to \$1000/day for a large crew operation.

The Federal land management agencies abide by a standard pricing structure as follows:

## Commercial Filming/Videos

- 1–2 people, camera & tripod only - \$0/day
- 1–10 people - \$150/day
- 11–30 people - \$250/day
- 31–49 people - \$500/day
- Over 50 people - \$750/day

## Still Photography

- 1–10 people - \$50/day
- 11–30 people - \$150/day
- Over 30 people - \$250/day

## IV. ASSUMPTIONS

It is assumed permit issuance will commence at the estimated numbers listed and stay consistent over time.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.145 Tree Stands.** The commission proposes to amend this rule.

*PURPOSE:* This proposed amendment clarifies the use of tree stands for black bear hunting on department areas.

Only portable tree stands are allowed and only from September 1 through January 31 on areas where **black bears**, deer, or elk hunting is allowed, by special use permit, or except as otherwise authorized in 3 CSR 10-11.181 [*Turkey Hunting and*], 3 CSR 10-11.182 [*Deer Hunting*], and **3 CSR 10-11.191** of this chapter. Unattended stands must be plainly labeled on a durable material with the full name and address, or Conservation Number, of the owner and be removed from the area before February 1. Use of nails, screw-in steps, and any material or method that would damage the tree is prohibited.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED AMENDMENT**

**3 CSR 10-11.180 Hunting, General Provisions and Seasons.** The commission proposes to add section (16) to this rule.

*PURPOSE:* This amendment prohibits hunting on portions of Peck Ranch Conservation Area designated as a refuge, except as authorized by 3 CSR 10-11.181, 3 CSR 10-11.182, and 3 CSR 10-11.190.

**(16) Hunting is prohibited inside the fenced portions of Peck Ranch Conservation Area designated as a refuge by posting or as shown on the area map or the online conservation atlas, except for deer, turkey, and elk hunting as authorized by 3 CSR 10-11.181, 3 CSR 10-11.182, and 3 CSR 10-11.190 of this chapter.**

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.115. Original rule filed April 30, 2001, effective Sept. 30, 2001. For inter-

vening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 11—Wildlife Code: Special Regulations for  
Department Areas**

**PROPOSED RULE**

**3 CSR 10-11.191 Black Bear Hunting**

*PURPOSE:* This rule establishes provisions for black bear hunting on department areas.

Black bears may be hunted on department areas located within the black bear management zones as described in 3 CSR 10-7.900(5) in accordance with statewide regulations, except as further restricted in this chapter.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.109 Closed Hours.** The commission proposes to amend subsection (1)(L), remove subsection (1)(M), and re-letter subsequent subsections of this rule.

*PURPOSE:* This amendment changes the name of the Liberty (Fountain Bluff Park) to Liberty (Capitol Federal® Sports Complex)

and removes Macon County (Fairground Lake), due to the termination of the community assistance program (CAP) agreement, from the rule.

(1) Closed Hours. The following areas are closed to public use from 10:00 p.m. to 4:00 a.m. daily; however, hunting, fishing, trapping, dog training, camping, launching boats, and landing boats are permitted at any time on areas where these activities are authorized, except as further restricted in this chapter.

(L) Liberty (*Fountain Bluff Park*) **Capitol Federal® Sports Complex** Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)

*[(M) Macon County (Fairground Lake)]*

*[(N)/(M) Marceline (Marceline City Lake, Old Marceline City Reservoir)*

*[(O)/(N) Memphis (Lake Showme)*

*[(P)/(O) Milan (Elmwood Lake)*

*[(Q)/(P) Monroe City (Route J Reservoir)*

*[(R)/(Q) Palmyra (Akerson Access)*

*[(S)/(R) Pemiscot County (Triangle Boat Club Access)*

*[(T)/(S) Pleasant Hill (Pleasant Hill City Lake and Porter Park Lake)*

*[(U)/(T) Rockaway Beach Access*

*[(V)/(U) Sedalia Water Department (Spring Fork Lake)*

*[(W)/(V) Springfield City Utilities (Fellows Lake, Lake Springfield, Tailwaters Access)*

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed June 1, 2001, effective Oct. 30, 2001. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 4, 2020.

**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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

#### PROPOSED AMENDMENT

**3 CSR 10-12.110 Use of Boats and Motors.** The commission proposes to amend subsection (2)(R), remove subsections (2)(S), (2)(V), and (2)(LL), and re-letter subsequent subsections of this rule.

**PURPOSE:** This amendment changes the name of the Liberty (Fountain Bluff Park) to Liberty (Capitol Federal® Sports Complex) and removes Macon County (Fairground Lake), Mount Vernon (Williams Creek Park Lake), and University of Missouri (South Farm R-1 Lake), due to the termination of the community assistance program (CAP) agreements, from the rule.

(2) Boats are prohibited on the following areas:

(R) Liberty (*Fountain Bluff Park*) **Capitol Federal® Sports Complex** Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8);

*[(S) Macon County (Fairgrounds Lake);]*

*[(T)/(S) Mexico (Kiwani Lake);*

*[(U)/(T) Mineral Area College (Quarry Pond);*

*[(V) Mount Vernon (Williams Creek Park Lake);]*

*[(W)/(U) Overland (Wild Acres Park Lake);*

*[(X)/(V) Pleasant Hill (Porter Park Lake);*

*[(Y)/(W) Potosi (Roger Bilderback Lake);*

*[(Z)/(X) Raymore (Johnston Lake);*

*[(AA)/(Y) Rolla (Schuman Park Lake);*

*[(BB)/(Z) St. Ann (Gendron Lake);*

*[(CC)/(AA) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake);*

*[(DD)/(BB) St. James (Scioto Lake);*

*[(EE)/(CC) St. Joseph (Krug Park Lagoon);*

*[(FF)/(DD) St. Louis (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, North Lake, South Lake);*

*[(GG)/(EE) St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Fountain Lake, Island Lake, Jarville Lake, Tilles Park Lake);*

*[(HH)/(FF) Sedalia (Clover Dell Park Lake, Liberty Park Pond);*

*[(II)/(GG) Taos (Taos Countryside Park Lake);*

*[(JJ)/(HH) Tipton (Tipton Park Lake);*

*[(KK)/(II) Union (Union City Lake);*

*[(LL) University of Missouri (South Farm R-1 Lake);]*

*[(MM)/(JJ) Watershed Committee of the Ozarks (Valley Water Mill Lake); and*

*[(NN)/(KK) Wentzville (Community Club Lake, Heartland Lake).*

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 4, 2020.

**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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

#### PROPOSED AMENDMENT

**3 CSR 10-12.115 Bullfrogs and Green Frogs.** The commission proposes to add paragraph (1)(B)2., remove paragraph (1)(B)10., renumber subsequent paragraphs as necessary, and amend new paragraph (1)(B)10. of this rule.

**PURPOSE:** This amendment adds Belton (Cleveland Lake) as an area under management agreement with Missouri Department of Conservation (MDC), changes the name of the Liberty (Fountain Bluff Park) to Liberty (Capitol Federal® Sports Complex), and removes Macon County (Fairground Lake), due to the termination of the community assistance program (CAP) agreement, from the rule.

(1) Bullfrogs and green frogs may be taken during the statewide season only by hand, handnet, atlatl, gig, bow, snagging, snaring, grabbing, or pole and line except as further restricted by this chapter.

(B) Only pole and line may be used to take frogs on the following areas:

1. Ballwin (New Ballwin Park Lake, Vlasik Park Lake);
2. **Belton (Cleveland Lake);**  
/2./3. Butler City Lake;
- 3./4. Fenton (Preslar Lake, Upper Fabick Lake, Westside Park Lake);  
/4./5. Ferguson (January-Wabash Park Lake);
- 5./6. Jennings (Koeneman Park Lake);
- 6./7. Kearney (Jesse James Park Lake);
- 7./8. Kirksville (Spur Pond);
- 8./9. Kirkwood (Walker Lake);
- 9./10. Liberty ([Fountain Bluff Park] Capitol Federal® Sports Complex Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8);  
/10. Macon County (Fairground Lake);
11. Mineral Area College (Quarry Pond);
12. Overland (Wild Acres Park Lake);
13. Potosi (Roger Bilderback Lake);
14. Raymore (Johnston Lake);
15. St. Ann (Gendron Lake);
16. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake);
17. St. Louis (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, North Lake, South Lake);
18. St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson Park Lake, Spanish Lake, Sunfish Lake, Tilles Park Lake);
19. Sedalia (Clover Dell Park Lake, Liberty Park Pond);
20. Sedalia Water Department (Spring Fork Lake);
21. Warrensburg (Lions Lake);
22. Watershed Committee of the Ozarks (Valley Water Mill Lake);
23. Wentzville (Community Club Lake, Heartland Lake); and
24. Windsor (Farrington Park Lake).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.130 Fishing, General Provisions and Seasons.** The commission proposes to amend subsection (4)(A) of this rule.

*PURPOSE: This amendment changes the name of the Liberty (Fountain Bluff Park) to Liberty (Capitol Federal® Sports Complex).*

(4) Fishing is restricted to persons fifteen (15) years of age or younger on the following areas or individually named lakes:

(A) Liberty ([Fountain Bluff Park] Capitol Federal® Sports Complex Pond No. 8).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.135 Fishing, Methods.** The commission proposes to amend subsection (3)(F) of this rule.

*PURPOSE: This amendment changes the name of the Liberty (Fountain Bluff Park) to Liberty (Capitol Federal® Sports Complex).*

(3) Gizzard shad may be taken from lakes and ponds by dip net or throw net, except at the following areas:

(F) Liberty ([Fountain Bluff Park] Capitol Federal® Sports Complex Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2020.*

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's*



website at <https://short.mdc.mo.gov/Z49>. 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 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 20—Wildlife Code: Definitions**

**PROPOSED AMENDMENT**

**3 CSR 10-20.805 Definitions.** The commission proposes to amend sections (28), (31), (43), and (54) and add subsections (54)(E) and (54)(F) to this rule.

*PURPOSE:* The proposed amendment moves black bear from the furbearer definition to the game mammal definition, modifies the muzzleloading firearm definition to specifically include any firearm capable of having the powder or propellant loaded from the breech if the bullet or projectile(s) can only be loaded from the muzzle, and clarifies the definition of resident landowner with respect to land that is owned by a trust.

(28) Furbearing animals: Furbearers: Badger, beaver, [black bear,] bobcat, coyote, gray fox, long-tailed weasel, mink, mountain lion, muskrat, nutria, opossum, raccoon, red fox, river otter, spotted skunk, and striped skunk.

(31) Game mammals: **Black bears**, [C]cottontail rabbit, deer, elk, fox squirrel, gray squirrel, groundhog (woodchuck), jackrabbit, swamp rabbit, and furbearers as defined.

(43) Muzzleloading firearm: Any firearm capable of being loaded only from the muzzle; **including any firearm capable of having the powder or propellant loaded from the breech, provided the bullet or projectile(s) is/are capable of being loaded only from the muzzle.**

(54) 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 bears, deer, elk, and turkey. **For the purposes of this definition, settlers, revocable, and permissible distributees are defined as found in section 456.1-103 of the Revised Statutes of Missouri.** In the case of corporate ownership of land or land held in trust, persons defined as landowners include Missouri residents who are—

(D) Officers of benevolent associations organized pursuant to Chapter 352 of the *Revised Statutes of Missouri* [.];

(E) Settlers of a revocable trust; and

(F) Permissible distributees of an irrevocable trust.

*AUTHORITY:* sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-11.805. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 4, 2020.

*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 Regulations Committee Chairman, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180, or via the department's website at <https://short.mdc.mo.gov/Z49>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION**  
**Division 10—Missouri Highways and Transportation Commission**  
**Chapter 3—Utility and Private Line Location and Relocation**

**PROPOSED AMENDMENT**

**7 CSR 10-3.010 Location and Relocation of Utility Facilities on State Highways.** The Missouri Highways and Transportation Commission is amending sections (7) and (8) and subsections (1)(A), (1)(B), (3)(H), (3)(J), (3)(K), and adding a new subsection (3)(L) and sections (9) through (10).

*PURPOSE:* This amendment promulgates rule provisions that establish a standardized statewide system to request and issue variances to locate/relocate utility facilities in the utility corridor. It also establishes rule provisions for the department to expand, in its sole discretion, the utility corridor to twelve feet (12') wide when the corridor is fully utilized and where space is reasonably available.

(1) Application.

(A) The following rule is established for the location or relocation of utility facilities on the right-of-way of highways in the state highway system. Any location or relocation of utility facilities contrary to this [policy] rule and without a permit or an approved variance is declared to be an interference with the construction, maintenance, or operation of state highways and their right-of-way and is prohibited.

(B) Except as [described] expressly exempted in this rule, all work to be performed on right-of-way of the state highway system in connection with the location, relocation, or maintenance of utilities, and where the roadway, shoulders, or right-of-way will be affected by the work, must be done only under a permit or agreement to be issued prior to the commencement of said work by authority of the Missouri Highways and Transportation Commission and that specifies the nature of the work to be performed. Application for these permits [may] shall be made on forms M-460 provided for that purpose, which is incorporated by reference and made a part of this rule, as published by the Missouri Department of Transportation, 105 W. Capitol Ave., PO Box 270, Jefferson City, MO 65102, on July 1, 2020. This rule does not incorporate any subsequent amendments or additions to the Application. Applications for permits may be obtained at any of the seven (7) district highway offices of the commission, Missouri Department of Transportation's website located at: <http://modot.mo.gov/design/UtilityResources/Permits.htm>, or by requesting the applications from the office of the Missouri Highways and Transportation Commission at the Missouri Department of Transportation Building, PO Box 270, Jefferson City, MO 65102, or by calling (573) 751-2551.

(3) Definitions and General Information.

(H) Scenic enhancement areas. Scenic enhancement areas include areas acquired or so designated as scenic strips, overlooks, rest areas, and all rights-of-way of highways adjacent thereto and the rights-of-way of highways which pass through public parks, recreation areas, wildlife or waterfowl refuges, and historic sites as described under Title 23 United States Code (U.S.C.), section 138,

which is incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N. Capitol Street NW, Washington D.C. 20402-0001, website: <http://bookstore.gpo.gov>, on [July 1, 2016] November 13, 2019. This rule does not incorporate any subsequent amendments or additions.

(J) Utility corridor. An area established for the placement of utility facilities parallel to and within six feet (6') of the normal right-of-way. The utility corridor may be expanded from six feet (6') to up to twelve feet (12') where space is reasonably available, and only as determined by the department pursuant to section (10) of this rule.

(K) Variance. A one- (1-) time deviation from the requirements for location or relocation of utility facilities on the right-of-way of highways in the state highway system as established in Title 7 Code of State Regulations 10-3, requested by the utility and approved by a MoDOT district utilities engineer. The process for requesting and approving a variance is described in section (9) of this rule.

(K)(L) Vertical clearance for overhead crossings. The vertical clearance of new or existing overhead installations is not less than the current minimum requirements of the *National Electric Safety Code*, but in no case less than eighteen feet (18'). The *National Electric Safety Code* is incorporated by reference and made a part of this rule as published by the Institute of Electrical and Electronics Engineers-Standards Association, 501 Hoes Lane, 3rd Floor, Piscataway, New Jersey 08855, website: <http://standards.ieee.org>, on August 1, 2016. This rule does not incorporate any subsequent amendments or additions to these standards.

(7) Cutting Pavement. In the event that permission is granted to cut an existing P.C.C. or A.C. pavement, all cuts, if possible, shall be made with a saw to a minimum depth of two and one-half inches (2 1/2"). The width of cut shall be determined by the width of required trench plus twelve inches (12") on each side of the trench. In the event that the distance to any adjacent longitudinal or transverse joint or crack is less than four feet (4'), the pavement shall be removed to that joint or crack. All pavement repair shall be made in compliance with the 2017/20 Missouri Standard Specification for Highway Construction, which is incorporated by reference and made a part of this rule, as published by the Missouri Department of Transportation, 105 W. Capitol Ave., PO Box 270, Jefferson City, MO 65102, website: [http://www.modot.org/business/standards\\_and\\_specs/highwayspecs.htm](http://www.modot.org/business/standards_and_specs/highwayspecs.htm), on [June 8, 2017] July 1, 2020. This rule does not incorporate any subsequent amendments or additions to the *Standard Specifications*.

(8) Special Conditions. Special conditions at specific locations, which make adherence to this rule impractical [may be submitted to the chief engineer], will be subject to approval by the district utilities engineer for consideration of an acceptable alternate.

(9) Variance Process. Any utility authorized under section 227.240, RSMo, may apply for a variance. The process for requesting a variance is as follows:

(A) Utilities may submit to the district utilities engineer a written request for approval of a plan that does not conform to the requirements of this rule. The utility must clearly show the following:

1. The provision(s) or guideline(s) in this rule for which the variance is being requested;
2. The condition(s) which the utility believes warrants the granting of a variance;
3. A thorough explanation of the reason(s) for the requested variance, including safety, aesthetic, economical, or other data which apply to the request; and
4. Sufficient and appropriate documentation of the barriers to installing the utility facility in accordance with this rule, how

installing according to this rule would be adverse to the function, access, or maintenance of the utility and not in the best interest of the public;

(B) The utility bears the full responsibility of demonstrating to the department's satisfaction that the variance is the most appropriate way to serve the public interest. The department may present, and the utility must consider, reasonable alternatives to the variance requested by the utility;

(C) The department must obtain Federal Highway Administration (FHWA) concurrence to the variance request when the variance is on the interstate system; and

(D) In determining whether to grant a variance, the department will consider all relevant factors, including, but not limited to, whether:

1. The requested variance is reasonably necessary for the convenience, safety, and/or welfare of the public; or
2. There is exceptional or undue financial burden or other hardship on the specific applicant, or a physical impracticability that would result from the applicant's compliance with the location/relocation provisions in this rule, that would be lessened by department approval of the requested variance; or
3. The requested variance will impair the safe construction, maintenance, or operations of the highway, or otherwise conflict with the purposes of the rule; or
4. The requested variance will be detrimental to the public health, welfare, and/or public travel, traffic, or safety on the highway.

(10) Utility Corridor Dimension. When considering if the current utility corridor is available to expand from six feet (6') to as much as twelve feet (12'), the commission delegates to the department the sole authority to determine if expansion is warranted. In making its determination, the department will consider the existing utilization of the original six feet (6') corridor. Poles must remain within two feet (2') of the normal right-of-way line. The utility corridor will only be expanded beyond six feet (6') if the original six feet (6') corridor is fully utilized and additional space would be required to accommodate additional utility facilities. Nothing in this rule requires the commission to acquire additional right-of-way. When considering a new underground utility facility within the expanded corridor, the available space shall be limited such that the distance from the ditch line to the proposed utility facility location shall be equal to or greater than the intended depth of the new utility facility installation, as described in the Definitions and General Information section of this rule.

*AUTHORITY:* section[s] 226.020, RSMo 2016, and section 227.240, RSMo [2016] Supp. 2020. Original rule filed Jan. 21, 1965, effective Jan. 31, 1965. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 3, 2020.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, MO 65102 or [Pamela.Harlan@modot.mo.gov](mailto:Pamela.Harlan@modot.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 7—MISSOURI DEPARTMENT OF  
TRANSPORTATION**  
**Division 10—Missouri Highways and Transportation  
Commission**  
**Chapter 3—Utility and Private Line Location and  
Relocation**

**PROPOSED AMENDMENT**

**7 CSR 10-3.020 Utility Relocation Hearings and Variance Request Hearings.** The Missouri Highways and Transportation Commission is amending the title of the rule, the purpose section, and sections (1) and (2).

*PURPOSE:* This amendment promulgates rules for Variance Request Informal Hearings.

*PURPOSE:* This rule provides a uniform procedure for administrative hearings concerning **variance requests and location and relocation of utility improvements and facilities within the rights-of-way of state highways.**

(1) Hearing Authorized.

**(A) Utility Relocation Hearings.** The commission has authority to order the location and relocation of utility improvements and facilities within the right-of-way of any state highway to prevent interference with the construction, maintenance, and public use of state highways. Before exercising its authority to order the relocation of utility facilities within the right-of-way, the commission shall provide the opportunity for an administrative hearing under section 227.240, RSMo to any entity, person, or corporation authorized under section 227.240, RSMo to own or maintain utility lines, poles, wires, conduits, pipelines, and tramways (utility facility) within state highway right-of-way regarding the commission's proposed plan of utility facility location or relocation and other incidental matters. Such entity, person, or corporation may waive, at any time, the right to an administrative hearing under section 227.240, RSMo, which is to be provided to the district engineer or his/her designee or the hearing examiner.

**(B) Variance Request Informal Hearings.**

**1. Request for Informal Hearing.** If denied a utilities variance, the applicant will have thirty (30) calendar days to request an informal hearing for the purpose of appealing the denial. The applicant will submit its request for an informal hearing to the State Design Engineer, Missouri Department of Transportation, PO Box 270, Jefferson City, MO 65102.

**2. Procedure.** If the applicant requests an informal hearing, the department's authorized representative will advise the applicant of the time, date, and place of the hearing. This hearing is not a contested case under Chapter 536, RSMo. The rules of evidence will not apply at the hearing and the department's decision after conduct of the hearing is not subject to appeal.

(2) Notice of Hearing – **Utility Relocations.** Upon request by the district engineer, the commission's hearing examiner shall prepare a written notice of hearing that includes a plan or drawing indicating the locations within the right-of-way in which utilities may be located and maintained, state when the commission or its contractor is scheduled to begin work on the right-of-way, state the date by which work shall be completed on utilities within the right-of-way, fix the time and place of the administrative hearing, and advise that the purpose of the hearing is to consider the commission's proposed plan of utility location and other incidental matters. The notice of hearing may be served upon each entity, person, or corporation, authorized under section 227.240, RSMo to own or maintain a utility facility within the right-of-way by certified mail, with return receipt requested, at least fifteen (15) days before the date of the hearing.

*AUTHORITY:* section 227.240, RSMo [2016] Supp. 2020. Original rule filed May 12, 1978, effective Aug. 11, 1978. Amended: Filed Nov. 14, 2017, effective June 30, 2018. Amended: Filed Sept. 3,

2020.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission. Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, MO 65102 or Pamela.Harlan@modot.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
*[Division 30—Office of the Director]*  
**Division 90—Missouri 911 Service Board**  
**Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.010] 90-4.010 General Organization.** The board is moving the rule to a new division and amending section (1).

*PURPOSE:* The board was required by statute to conduct a review of the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory changes and to improve the training requirements and process.

(1) The objective of the *[Advisory Committee for 911 Service Oversight is—]* **Missouri 911 Service Board is creating standardized 911 training and education requirements for telecommunicators to enhance statewide 911 emergency services.**

*[(A) To improve services provided by telecommunicators.]*

*AUTHORITY:* section 650.340, RSMo Supp. [2011] 2020. This rule originally filed as 11 CSR 10-12.010. Original rule filed May 16, 2000, effective Nov. 30, 2000. Moved to 11 CSR 30-13.010 and amended: Filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to 11 CSR 90-4.010 and amended: Filed Sept. 9, 2020.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
*[Division 30—Office of the Director]*  
**Division 90—Missouri 911 Service Board**  
**Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.020] 90-4.020 Definitions.** The department is

moving the rule to a new division and amending the purpose and sections (1)-(5).

*PURPOSE: The board was required by statute to conduct a review of the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory changes and to improve the training requirements and process.*

*PURPOSE: This rule defines the terms [used in the rules,] which pertain to the training and education of telecommunicators.*

(1) [Committee refers to the advisory committee for 911 service oversight established in section 650.325, RSMo.] **Board refers to the Missouri 911 Service Board within the Department of Public Safety established in section 650.325, RSMo.**

(2) [Department refers to the Missouri Department of Public Safety.] **Training committee refers to the committee or other designees of the board tasked by the board with assisting the board in administering the 911 Training and Standards Act in section 650.340, RSMo.**

(3) **Joint Communications Center** refers to a public safety answering point which dispatches fire, law enforcement, and emergency medical service agencies.

(4) **Public Safety Answering Point (PSAP) and Emergency Communications Center (ECC)** refer[s] to the location at which 911 calls are answered initially.

(5) **Telecommunicator** is any person employed as an emergency telephone worker, call taker, or public safety dispatcher whose duties include receiving, processing, or transmitting public safety information received through a Public Safety Answering Point or **Emergency Communications Center**.

*AUTHORITY: section 650.340, RSMo Supp. [2011] 2020. This rule originally filed as 11 CSR 10-12.020. Original rule filed May 16, 2000, effective Nov. 30, 2000. Moved to 11 CSR 30-13.020 and amended: Filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to 11 CSR 90-4.020 and amended: Filed Sept. 9, 2020.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
*[Division 30—Office of the Director]*  
*Division 90—Missouri 911 Service Board*  
**Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.030] 90-4.030 Initial Training.** The department is moving the rule to a new division, amending section (1), and adding sections (3) and (4).

*PURPOSE: The board was required by statute to conduct a review of the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory*

*changes and to improve the training requirements and process.*

(1) Telecommunicators hired after August 28, 1999, must complete the following **initial training units (ITU)** within twelve (12) months of the date of employment. *Training must meet the requirements indicated in 11 CSR 30-13.060.]:*

(A) In order to act as a telecommunicator for any law enforcement agency, sixteen (16) hours of police dispatcher *[training]* ITU or forty (40) hours of joint communications dispatcher *[training.]* ITU;

(B) In order to act as a telecommunicator for any fire department, sixteen (16) hours of fire dispatcher *[training]* ITU or forty (40) hours of joint communications dispatcher *[training.]* ITU;

(C) In order to act as a telecommunicator for any emergency medical service, sixteen (16) hours of emergency medical dispatcher *[training]* ITU or forty (40) hours of joint communications dispatcher *[training.]* ITU; **and**

(D) In order to act as a telecommunicator for a joint communications center, forty (40) hours of joint communications dispatcher *[training]* ITU.

(3) **Telecommunicator initial training units (ITU)** may be obtained from the sources identified in 11 CSR 90-4.050(3).

(4) **Each Public Safety Answering Point or Emergency Communications Center shall be responsible for maintaining records of compliance with the ITU rules for each telecommunicator in their employ.**

(A) **Telecommunicators shall be responsible to submit ITU certificates of completion to their employer.**

(B) **Telecommunicators should maintain certificates of completion showing their compliance with the ITU rules.**

*AUTHORITY: section 650.340, RSMo Supp. [2011] 2020. This rule originally filed as 11 CSR 10-12.030. Original rule filed May 16, 2000, effective Nov. 30, 2000. Moved to 11 CSR 30-13.030 and amended: Filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to 11 CSR 90-4.030 and amended: Filed Sept. 9, 2020.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
*[Division 30—Office of the Director]*  
*Division 90—Missouri 911 Service Board*  
**Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.040] 90-4.040 Exemptions and Waiver of Initial Training Requirement.** The department is moving the rule to a new division and amending sections (1)-(7).

*PURPOSE: The board was required by statute to conduct a review of the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory*

changes and to improve the training requirements and process.

(1) The following individuals shall be exempted from the requirements of this rule:

(A) Telecommunicators who meet the definition of an *[E]*emergency *[M]*medical *[D]*dispatcher as defined by 190.100, RSMo;

(B) Individuals who have received training by an **emergency medical** entity accredited or certified under section 190.131, RSMo; and

(C) Individuals who provide pre-arrival medical instructions and work for an agency, which meets the requirements, set forth in 190.134, RSMo.

(2) Any persons hired after August 28, 1999, as a telecommunicator, may have the initial training requirement waived upon furnishing proof to the *[committee]* board that they have completed a training course in another state that meets the minimum requirements listed in 11 CSR *[30-13.030]* **90-4.030**.

*[(3)](A)* Typically, a certificate of training or college transcripts must be produced to meet the waiver requirement.

*[(4)](B)* If an individual received training in a single discipline and is *[not]* now employed in a multidiscipline Public Safety Answering Point (PSAP) (two (2) disciplines) or joint communication center, they must complete the initial training requirements for the disciplines in which they are not certified.

*[(5)](C)* Requests for waivers from individuals who received training from organizations outside Missouri may submit certificates, transcripts, or other proof of training to the *[Advisory Committee for 911 Service Oversight, PO Box 749, Jefferson City, MO 65102, for review and approval]* board by mail or electronic mail for review and approval. Mail to Missouri 911 Service Board PO Box 2126, Jefferson City, MO 65102 or email to [admin@missouri911.org](mailto:admin@missouri911.org). Original documents are preferred if the request for waiver is submitted by mail and will be returned to the applicant. The board reserves the right to request the provision of original documents prior to making a decision on requests for waivers.

*[(6)](D)* Upon completion of the review process, the *[committee]* board will inform the applicant by letter of *[their]* its decision.

*[(7)](E)* The waiver letter will suffice for proof of training by the PSAP or ECC.

*AUTHORITY: section 650.340, RSMo Supp. [2011] 2020. This rule originally filed as 11 CSR 10-12.040. Original rule filed May 16, 2000, effective Nov. 30, 2000. Moved to 11 CSR 30-13.040 and amended: Filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to 11 CSR 90-4.040 and amended: Filed Sept. 9, 2020.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
*[Division 30—Office of the Director]*  
**Division 90—Missouri 911 Service Board**  
**Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.050] 90-4.050 Requirements for Continuing**

**Education.** The board is moving the rule to a new division and amending sections (1)–(4).

*PURPOSE: The board was required by statute to conduct a review of the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory changes and to improve the training requirements and process.*

(1) **Telecommunicator [C]continuing [telecommunicators] education [CTE] units (CEU)** shall be obtained and monitored on a fixed three- (3-) year cycle, with the first *[CTE]* CEU period ending December 31, 2014, and successive *[CTE]* CEU periods ending December 31 every third year thereafter.

(2) Every telecommunicator shall obtain a minimum of twenty-four (24) hours of *[CTE]* CEU credit during each *[CTE]* CEU period.

(3) *[CTE]* CEU credit may be obtained from the following sources:

(A) From a *[CTE]* CEU provider approved pursuant to 11 CSR *[30-13.070]* **90-4.070** or a Continuing Law Enforcement Education provider licensed pursuant to 11 CSR 75-15.030 **Peace Officer Standards and Training (POST) Program;**

(B) **From an Emergency Medical Dispatch (EMD) Training entity certified pursuant to 19 CSR 30-40.331 Application and Accreditation or Certification Requirements for Training Entities that Conduct Training for First Responders, Emergency Medical Dispatchers, Emergency Medical Technicians-Basic, Emergency Medical Technicians-Intermediate, and Emergency Medical Technicians-Paramedic;**

*[(B)](C)* From a source approved to provide a specific *[CTE]* CEU course pursuant to 11 CSR *[30-13.080]* **90-4.080;**

*[(C)](D)* From an approved out-of-state source pursuant to 11 CSR *[30-13.090]* **90-4.090;**

*[(D)](E)* For serving as an instructor for a *[CTE]* CEU class pursuant to 11 CSR *[30-13.060(3)(B)]* **90-4.060(3)(B);**

*[(E)](F)* By attending an accredited college or university course related to communications or emergency management or applicable to communications or emergency management administration pursuant to 11 CSR *[30-13.060(3)(C)]* **90-4.060(3)(C);** or

*[(F)](G)* *[As in-service training pursuant to 11 CSR 30-13.100.]* **From any current governmental agency or public safety organization employer.**

(4) Each *[telecommunicator]* **Public Safety Answering Point or Emergency Communications Center** shall be responsible for maintaining records of compliance with the continuing education rules for each telecommunicator in their employ.

(A) **Telecommunicators shall be responsible to submit CEU certificates of completion to their employer.**

(B) **Telecommunicators should maintain certificates of completion showing their compliance with the continuing education rules.**

*AUTHORITY: section 650.340, RSMo Supp. [2011] 2020. This rule originally filed as 11 CSR 10-12.050. Original rule filed May 16, 2000, effective Nov. 30, 2000. Moved to 11 CSR 30-13.050 and amended: Filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to 11 CSR 90-4.050 and amended: Filed Sept. 9, 2020.*

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

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

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

Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
*[Division 30—Office of the Director]*  
**Division 90—Missouri 911 Service Board**  
**Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.060] 90-4.060 Minimum Standards for Continuing Education Training.** The board is moving the rule to a new division and amending sections (1)–(7).

*PURPOSE:* The board was required by statute to conduct a review of the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory changes and to improve the training requirements and process.

(1) All **telecommunicator** continuing *[telecommunicators]* education *[(CTE)]* unit (CEU) training shall relate to one (1) or more of the following curricula areas:

(A) Legal studies—Described as training that focuses on the organization's mission, policy and procedure, standards, discipline, liability, or any type of legal issue;

(B) Technical studies—Described as training that focuses on public safety communications systems, radios or other dispatch consoles, telephone instruments and features, automatic number and location identification, broadband applications, text-to-9-1-1, ADA compliance equipment, and NG 9-1-1;

(C) Interpersonal perspectives—Described as training that focuses on interpersonal communications skills such as cultural diversity, ethics and values, fair and impartial service practices, conflict management, critical thinking, social intelligence, mental health awareness, personal well-being, stress management, customer service, management, and leadership; or

(D) Skill development—Described as training that focuses on activities that develop higher proficiency in telephone interview, call processing techniques, information management, computerized mapping, computer aided dispatch techniques, radio dispatch, and other critical skills related to public safety communication.

(2) All *[CTE]* CEU training shall be designated according to curricula area.

(3) *[CTE]* CEU credit shall be calculated at the following rates:

(A) One (1) hour of *[CTE]* CEU credit for each fifty (50) minutes of *[CTE]* CEU instruction received;

(B) Two (2) hours of *[CTE]* credit for each *[hour]* fifty (50) minutes of *[CTE]* CEU instruction delivered; and

(C) Two (2) hours of *[CTE]* CEU credit for each semester hour of credit earned at an accredited college, university, or technical institution related to communications and emergency management or applicable to communications and emergency management administration.

(4) Upon successful completion of the requirements of any *[CTE]* CEU course, the provider of the training shall present each trainee a certificate bearing—

(A) The provider's name and the phrase "Approved Provider";

(B) The course name;

(C) The *[total number of CTE credit hours earned]* date or dates on which the course was held;

(D) *[A breakdown of CTE credit hours earned]* The total number of CEU credit hours earned broken down by curricula area;

(E) The trainee's name; and

(F) The name of the individual responsible for general administration of the course.

(5) The *[CTE]* CEU provider shall retain, for a period of five (5) years after each *[CTE]* CEU training course, the following records:

(A) A copy of the training certificate or other record of the information required by *[subsections (4)(A) to (4)(F)]* section (4) of this rule;

*[(B)]* A list of all trainees who successfully completed the course;

*[(C)]* The name of the individual responsible for general administration of the course;

*[(D)]*(B) A list of all training objectives;

*[(E)]*(C) All course outlines;

*[(F)]*(D) All instructor records; and

*[(G)]*(E) The course evaluation plan.

(6) Every *[agency]* governmental agency or public safety organization employer that provides *[in-service CTE]* CEU training shall present each telecommunicator leaving the agency with a complete record of all *[in-service CTE]* CEU training obtained by the telecommunicator during the telecommunicator's tenure with the *[agency]* organization.

(7) *[CTE]* CEU providers shall deliver all *[CTE]* CEU training in an effective manner.

*AUTHORITY:* section 650.340, RSMo Supp. [2011] 2020. This rule originally filed as 11 CSR 10-12.060. Original rule filed May 16, 2000, effective Nov. 30, 2000. Moved to 11 CSR 30-13.060 and amended: Filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to 11 CSR 90-4.060 and amended: Filed Sept. 9, 2020.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
*[Division 30—Office of the Director]*  
**Division 90—Missouri 911 Service Board**  
**Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.070] 90-4.070 Procedure to Obtain Continuing Education Provider Approval for 911 Telecommunicators.** The board is moving the rule to a new division, amending sections (1)–(9), and adding section (10).

*PURPOSE:* The board was required by statute to conduct a review of the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory

*changes and to improve the training requirements and process.*

(1) Any person or entity may apply for a *[continuing telecommunication education (CTE)] continuing education units (CEU) provider approval, except that an agency eligible to provide in-service CTE training pursuant to 11 CSR 30-13.100 is not eligible for CTE provider approval] CEU.*

(2) An applicant shall submit to the *[911 Oversight Training Subcommittee a CTE] board a CEU provider approval application. The [subcommittee] board's training committee or other designees may review or request additional information from an applicant.*

(3) CEU courses shall relate to one (1) or more of the curricula areas pursuant to 11 CSR 90-4.060.

*[(3)](4) The [911 Oversight Training Subcommittee] board's training committee or other designees may consider any relevant factor in determining an applicant's qualifications, including the applicant's history, facilities and equipment, academic qualifications, financial qualifications, the estimated number of annual graduates, letters of support, and the justification for provider status as opposed to obtaining individual course approval pursuant to 11 CSR [30-13.080] 90-4.080.*

*[(4)](5) The [911 Oversight Training Subcommittee may] board's training committee or other designees—*

(A) *May request additional information regarding the application and/or [C]conduct a site visit;*

(B) *Shall [R]review the applicant's policies and procedures, including attendance and instructor evaluation policies;*

(C) *Shall [R]review the applicant's proposed courses, including training objectives, outlines, evaluation plan, and instructor qualifications; and*

(D) *Report [the] its findings to the [911 Oversight Committee] board's director and recommend that the board's director grant or deny the application.*

*[(5) Upon receipt of the training subcommittee's report, the 911 Oversight Committee may invite the applicant to appear before the committee.*

*(6) The 911 Oversight Committee shall provide the director of the department with a report outlining the findings from the review and a final recommendation whether to approve the applicant as a CTE provider.]*

*[(7)](6) At the board's director's request, the [911 Oversight Committee] board's training committee or designees shall obtain additional information regarding the application and share this information with the board's training committee or designees and the board's training committee or designees shall again recommend that the board's director grant or deny the application.*

(7) The board's director shall consider the recommendation of the *[911 Oversight Committee] the board's training committee or designees and shall grant or deny the [CTE provider approval or deny the applicant's request] application. The board's director shall send all application decisions to applicants by certified or registered mail, return receipt requested and provide the board with the results of the application process.*

(8) All new *[CTE] CEU provider approvals shall be issued for an initial period of one (1) year. During this initial period, the board's training committee or designees shall conduct a programmatic audit of the provider. Following this initial period and any additional one (1) year period under 11 CSR 90-4.100(8)(A), the*

*board's training committee or designees shall recommend that the board's director—*

(A) *Issue an additional one (1) year provider approval subject to further audit and review;*

(B) *Issue a three (3) year provider approval; or*

(C) *Deny the application, in which case the applicant may request to appear before the committee in order to appeal the decision.*

(9) The procedure to renew a *[CTE] CEU provider approval shall be as follows:*

(A) *The applicant shall submit to the [911 training subcommittee] board a [CTE] CEU provider renewal application;*

(B) *The [911 training subcommittee] board's training committee or designees may conduct a programmatic review of the applicant;*

(C) *The [911 training subcommittee] board's training committee or designees shall review the renewal application of the [CTE] CEU provider and [present the findings to the 911 Oversight Committee for review] recommend that the board's director grant or deny the renewal application; and*

*[(D) The 911 Oversight Committee shall provide a report of the findings and make a recommendation to the director of the department whether to grant or deny the renewal; and]*

*[(E)](D) The director [of the department] shall consider the renewal recommendation of [the 911 Oversight Committee] its training committee or designees and [may] shall—*

1. *Request additional information regarding the renewal application;*

2. *Renew the approval for an additional period of one (1) year subject to further audit and review [by the 911 Oversight Committee];*

3. *Grant a three- (3-) year approval; or*

4. *Deny the approval.*

(10) Any applicant whose application is denied may appeal the denial decision to the board's chairperson by submitting an appeal by certified or registered mail to Chairperson, Missouri 911 Service Board at PO Box 2126, Jefferson City, MO 65102, or by electronic mail addressed to [admin@missouri911.org](mailto:admin@missouri911.org).

(A) **Appeal Deadline.** Appeals must be received by the Board's Chairperson within fourteen (14) calendar days of the date the applicant received the application decision. If the fourteenth day falls on a Saturday, Sunday, or state holiday, the period will extend to the next state business day.

(B) **Appeal Requirements.** All appeals shall be in writing and include the following information:

1. *A copy of the application denial letter;*

2. *The applicant's handwritten or electronic signature;*

3. *A detailed statement of the grounds for the appeal; and*

4. *Supporting exhibits, evidence, or documents for the appeal.*

(C) *The board's chairperson will deny an appeal that does not contain all of the required information or is untimely.*

(D) *The board's chairperson will issue a written decision sustaining or denying the appeal and send it to the applicant by registered or certified mail.*

(E) *If the board's chairperson sustains the appeal, it will grant the application. If the board denies the appeal, the board will take no further action on the appeal.*

*AUTHORITY: section 650.340, RSMo Supp. [2011] 2020. Original rule filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to 11 CSR 90-4.070 and amended: Filed Sept. 9, 2020.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
*[Division 30—Office of the Director]*  
**Division 90—Missouri 911 Service Board**  
**Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.080] 90-4.080 Procedure to Obtain Approval for an Individual Continuing Education Course for 911 Telecommunicators.** The department is moving the rule to a new division, amending the purpose and sections (1)–(7), and adding new section (8).

*PURPOSE: The board was required by statute to conduct a review of the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory changes and to improve the training requirements and process.*

*PURPOSE: This rule identifies the procedure to obtain approval for an individual telecommunicator continuing [telecommunicator] education unit (CEU) course.*

(1) To be eligible to obtain approval for a specific, individual **telecommunicator** continuing [telecommunicator] education [(CTE)] **unit (CEU)** course, an applicant must not be the holder of a [CTE] CEU provider approval.

(2) An applicant shall submit to the [911] **board's training [sub] committee or designees** a completed individual [CTE] CEU course application. The training [sub]committee may investigate the applicant or request additional information from the applicant.

(3) [Continuing telecommunicator education] CEU courses [must fall within] shall relate to one (1) or more of the [following] curricula areas in **11 CSR 90-4.060[.]:**

- [(A) Legal studies;*
- (B) Technical studies;*
- (C) Interpersonal perspectives; or*
- (D) Skill development.]*

(4) The [911] **board's training [sub]committee or designees** may consider any relevant factor in determining the qualification of the applicant and proposed course, including, attendance policy, evaluation plan, training objectives, course outline, and record of instructions of previous courses.

(5) The [911 training subcommittee] **board's training committee or designees** shall make a recommendation to the [911 Oversight Committee] **board's director**.

*[(6) The 911 Oversight Committee shall provide the director of the department with a report and final recommendation regarding the application.]*

*[(7)](6) The board's director [of the department] may—*

- (A) Request additional information regarding the application;*
- (B) Grant approval of the individual [CTE] CEU course; or*
- (C) Deny the application.*

*[(8)](7) Any change to the training objectives of an individual [CTE] CEU course shall require [prior approval of the director] the course to be resubmitted to the board's training committee or designees in accordance with these guidelines for review and approval of the board's director.*

(8) Any applicant whose application is denied may appeal the denial decision to the board's chairperson by submitting an appeal by certified or registered mail to Chairperson, Missouri 911 Service Board at PO Box 2126, Jefferson City, MO 65102, or by electronic mail addressed to admin@missouri911.org.

(A) **Appeal Deadline.** Appeals must be received by the board's chairperson within fourteen (14) calendar days of the date the applicant received the application decision. If the fourteenth day falls on a Saturday, Sunday, or state holiday, the period will extend to the next state business day.

(B) **Appeal Requirements.** All appeals shall be in writing and include the following information:

- 1. A copy of the application denial letter;
- 2. The applicant's handwritten or electronic signature;
- 3. A detailed statement of the grounds for the appeal;
- 4. Supporting exhibits, evidence, or documents for the appeal.

(C) The board's chairperson will deny an appeal that does not contain all of the required information or is untimely.

(D) The board's chairperson will issue a written decision sustaining or denying the appeal and send it to the applicant by registered or certified mail.

(E) If the board's chairperson sustains the appeal, it will grant the application. If the board denies the appeal, the board will take no further action on the appeal.

*AUTHORITY: section 650.340, RSMo Supp. [2011] 2020. Original rule filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to 11 CSR 90-4.080 and amended: Filed Sept. 9, 2020.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
*[Division 30—Office of the Director]*  
**Division 90—Missouri 911 Service Board**  
**Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.090] 90-4.090 Out-of-State, Federal[,] and Organizations or Commercial Entities Continuing Education Credit for 911 Telecommunicators.** The department is moving the rule to a new division and amending sections (1) and (2).

*PURPOSE: The board was required by statute to conduct a review of*



the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory changes and to improve the training requirements and process.

(1) The [director of the department] board's training committee or designees may recognize other state or federal agencies and organizations or commercial entities with standards for continuing education training providers comparable to the standards established pursuant to these rules.

(2) In order to receive credit for attending continuing [telecommunicator] education [(CTE)] unit CEU training recognized by the [director] board's training committee pursuant to this rule, a telecommunicator shall maintain evidence that—

(A) The training was approved for continuing education by the state or federal agency or organization or a commercial entity providing the training or by the state in which the training was located; and

(B) The telecommunicator successfully completed the training.

**AUTHORITY:** section 650.340, RSMo Supp. [2011] 2020. Original rule filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to II CSR 90-4.090 and amended: Filed Sept. 9, 2020.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 30—Office of the Director  
Chapter 13—911 Training and Standards Act**

**PROPOSED RESCISSION**

**11 CSR 30-13.100 In-Service Continuing Education Training for 911 Telecommunicators.** This rule established the procedure for a governmental agency to provide in-service training.

**PURPOSE:** This rule is being rescinded because in-service training requirements have been moved to a different rule.

**AUTHORITY:** section 650.340, RSMo Supp. 2011. Original rule filed Jan. 3, 2012, effective Aug. 30, 2012. Rescinded: Filed Sept. 9, 2020.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days

after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
[Division 30—Office of the Director]  
Division 90—Missouri 911 Service Board  
Chapter [13] 4—911 Training and Standards Act**

**PROPOSED AMENDMENT**

**11 CSR [30-13.110] 90-4.100 Computer-Based Continuing Education Training for 911 Telecommunicators.** The department is moving the rule to a new division and amending sections (1)–(3) and (5).

**PURPOSE:** The board was required by statute to conduct a review of the rules being amended. The purpose of each amendment is to move the 911 Training and Standards Act to the same division of the rules as the board's other rules, to update the rules to reflect statutory changes and to improve the training requirements and process.

(1) Any source approved to provide telecommunicator continuing [telecommunicator] education [(CTE)] unit (CEU) training pursuant to 11 CSR [30-13.050] 90-4.050 may offer interactive, computer-based training.

(2) Computer-based training shall meet all requirements of 11 CSR [30-13.060] 90-4.060. In addition, the training certificate presented to each trainee shall bear the phrase "Computer-Based Training."

(3) A computer-based training course shall be considered a complete course outline plan within itself. When a course is no longer available via computer, the provider shall maintain a printed copy of the course outline in the course file or a video copy retained pursuant to 11 CSR [30-13.060(5)] 90-4.060(5).

(5) The number of [CTE] CEU credit hours for a computer-based training course shall be determined by the approved provider.

**AUTHORITY:** section 650.340, RSMo Supp. [2011] 2020. Original rule filed Jan. 3, 2012, effective Aug. 30, 2012. Moved to II CSR 90-4.110 and amended: Filed: Sept. 9, 2020.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RULE**

**12 CSR 10-2.076 Allocation and Apportionment (Beginning on or After January 1, 2020)**

*PURPOSE: This rule interprets sections 143.431 and 143.455, RSMo for purposes of the apportionment and allocation of a corporate taxpayer's income where that taxpayer is taxable in another state.*

(1) Income Derived from Sources Within this State. On or after January 1, 2020, a corporation's income derived from sources within Missouri is its federal taxable income allocated to Missouri or apportioned to Missouri pursuant to section 143.455, RSMo. Section 143.455, RSMo replaces all methods and tests previously used in Missouri to apportion and allocate corporate income, including the 'source of income test' and the Multistate Tax Compact three-factor method.

(2) Definitions.

(A) "Allocation" refers to the assignment of a portion of net income to a particular state. Any taxpayer subject to the taxing jurisdiction of this state shall assign all of its nonapportionable income within or without this state in accordance with sections 143.455.5.-143.455.9., RSMo.

(B) "Apportionment" refers to the division of apportionable income between states by the use of a formula containing one (1) or more apportionment factors.

(C) "Director" or "Director of Revenue" shall mean the Missouri Director of Revenue or his/her duly authorized agent or designee.

(D) "Franchise tax," as that term is used in section 143.455.4., RSMo and in this regulation, means a tax, or a portion of a tax, charged for the privilege of doing business in a state.

(E) "Gross receipts" are the gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital in a transaction which produces apportionable income in which the income or loss is recognized under the Internal Revenue Code, and, where the income of foreign entities is included in apportionable income, amounts which would have been recognized under the Internal Revenue Code if the relevant transactions or entities were in the United States. Amounts realized on the sale or exchange of property are not reduced for the cost of goods sold or the basis of property sold.

(F) "Net Income," for purposes of section 143.455, RSMo, means the taxpayer's federal taxable income, net of Missouri additions, subtractions and deductions; except, that in section 143.455.10., RSMo the phrase "net income" refers to that portion of the taxpayer's federal taxable income, net of Missouri additions, subtractions, and deductions which also constitutes apportionable income;

(G) "Petition" or "Petitioning," as those terms are used in section 143.455.13.(2)-(3), RSMo, means the filing of written or electronic document(s) with the director at least sixty (60) days before the end of the tax year to which alternative apportionment is sought to apply, in the manner prescribed, and containing the following information:

1. The name and tax identification number of the taxpayer seeking alternative apportionment;
2. The name, telephone number, email address, and mailing address of each individual filing the petition on behalf of the taxpayer;
3. A power of attorney form (Form 2827) signed by an officer of the corporation authorizing the person(s) named in paragraph (2)(G)2. above to serve as an authorized agent with respect to any of the tax years to which the alternative apportionment may apply and all previous tax years that may be discussed in connection with the petition;
4. A statement describing with particularity the alternative apportionment method sought;
5. A statement setting forth the facts and arguments from the facts to the conclusion that the ordinary allocation and apportionment provisions of section 143.455, RSMo do not fairly represent the extent of the corporation's income applicable to this state;
6. A statement setting forth the facts and arguments from the facts to the conclusion that the alternative apportionment method

sought by the taxpayer is reasonable;

7. A Missouri tax return for the first tax year the alternative apportionment method is to be applied, completed using the ordinary apportionment and allocation provisions of section 143.455, RSMo, and prepared using reasonably estimated figures; and

8. A Missouri tax return for the first tax year the alternative apportionment method is to be applied, completed using the alternative apportionment method sought, and prepared using reasonably estimated figures.

(H) "Receipts" has the meaning given in section 143.455.3.(6), RSMo, with the following clarifications:

1. Receipts from the maturity of a bond or other debt instrument are excluded from the definition of "receipts" used in section 143.455.3.(6), RSMo.

2. Receipts from the sale or exchange of a security are excluded from the definition of "receipts" used in section 143.455.3.(6), RSMo, even if the sale or exchange was made as part of a corporation's regular business.

3. Receipts from the sale or exchange of currency, including foreign currencies or cryptocurrencies, are excluded from the definition of "receipts" used in section 143.455.3.(6), RSMo.

(I) "Receipts Factor" means the fraction stated in section 143.455.10., RSMo, the numerator of which is the total receipts of the corporation in Missouri during the tax period and the denominator of which is the total receipts of the corporation everywhere during the tax period.

(J) "Securities," means any interest or instrument commonly treated as a security as well as other instruments which are customarily sold in the open market or on a recognized exchange, including, but not limited to, transferable shares of a beneficial interest in any corporation or other entity, bonds, debentures, notes, and other evidences of indebtedness, accounts receivable and notes receivable, cash and cash equivalents including foreign currencies, and repurchase and futures contracts.

(K) "Taxpayer" or "Entity" means any individual, corporation, partnership, firm, association, or governmental unit.

(L) "Ultimate beneficiary of the service," as that term is used in section 143.455.12.(1)(c), RSMo and except for bartering or similar in-kind transactions, means the entity that receives benefit or value from, but does not also receive monetary or credit-based payment (other than refunds, cashback, or discount-equivalents) in direct connection with, the service at issue. Examples of the ultimate beneficiary of the service include:

1. For entertainment services, the individual(s) viewing, interacting with, experiencing, or otherwise deriving entertainment value from such services;
2. For education services, the individual(s) receiving instruction, teaching, coaching, or lectures from the education provider, regardless of the medium used to transmit such educational content (e.g. telephonically or by internet or mail);
3. For investment advising or investment management services, the location of the ultimate investor, determined by ignoring investment intermediaries such as investment funds; and
4. For advertising services, the entities which have their products, services, or messages advertised through the provider of advertising services.

(3) Apportionable Income. All income is presumed to be apportionable unless it is clearly nonapportionable under the *U.S. Constitution* or the laws of this state. Sections 143.455.5. through 143.455.9., RSMo provide for the allocation of certain categories of income only if that income is nonapportionable. In general all transactions and activities of the taxpayer which are dependent upon, or contribute to, the operations of the taxpayer's economic enterprise as a whole constitute the taxpayer's trade or business and will be transactions and activity arising in the regular course of, or will constitute integral parts of, a trade or business. Income from such transactions and activities is apportionable income, although the concept of apportionable

income extends to all income of the taxpayer unless nonapportionable.

(4) Accounting Terms and Classification Conventions. The categories and terms to describe income items used in financial or other forms of accounting, or as conventions by any taxpayer or industry, are not conclusive in determining whether any item of income constitutes apportionable or nonapportionable income. The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, nonoperating income, and the like, is not conclusive in determining whether income is apportionable or nonapportionable income.

(5) Taxable in Another State. For purposes of section 143.455.4.(2), RSMo, another state has jurisdiction to subject the taxpayer to a net income tax in the following circumstances. The circumstances provided are non-exclusive and a taxpayer may be subject to a net income tax in another state even if it fails to meet any of the following:

(A) The taxpayer has its commercial domicile in another state; or

(B) The taxpayer derives income from a part of its unitary business in another state, and that taxpayer is not entitled to the protections of the *Interstate Income Act of 1959* with respect to that state.

Even if a state cannot impose a tax on a taxpayer's net income by operation of the *Interstate Income Act of 1959*, a taxpayer is still taxable in that state if the taxpayer is subject to a franchise measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax in that state. A taxpayer is not taxable in another state with respect to a particular trade or business merely because the taxpayer conducts activities in the other state pertaining to the production of nonapportionable income or business activities relating to a separate trade or business not taxable by that state under the *U.S. Constitution*.

(6) Consistency in Reporting. In filing returns with this state, if the taxpayer departs from or modifies the manner in which the same item of income has been classified as apportionable income or nonapportionable income in returns for prior years, the taxpayer shall disclose in an attachment to the return for the current year the nature and extent of the modification.

(7) Taxable In Another State—Reporting. Any taxpayer which asserts that it is subject to one (1) of the taxes generally described in section 143.455.4., RSMo in another state shall furnish to the director, upon his/her request, evidence to support the assertion. The director may request proof the taxpayer has filed the requisite tax return in the other state and has paid any taxes imposed under the law of the other state. The taxpayer's failure to produce proof may be taken into account in determining whether the taxpayer in fact is subject to tax in another state. If the taxpayer pays a minimal fee for qualification, organization, or for the privilege of doing business in the state, but does not actually engage in business activity in that state, or does actually engage in some business activity, not sufficient for income tax, franchise tax, or stock tax nexus, and the minimum tax bears no relation to the taxpayer's business activity within that state, the taxpayer is not subject to tax in another state for purposes of section 143.455.4., RSMo.

(A) Example: State A has a corporation franchise tax measured by net income for the privilege of doing business in that state. Corporation X files a return and pays the fifty-dollar (\$50) minimum tax, although it carries on no business activity in State A. Corporation X is not taxable in State A.

(8) Taxability. The concept of taxability in another state is based upon the premise that every state in which the taxpayer is engaged in business activity may impose an income, franchise, or stock tax even though every state does not do so. In states which do not impose such

taxes, other types of taxes, fees, or even penalties may be imposed as a substitute for an income, franchise, or stock tax. Therefore, only those taxes generally described in section 143.455.4., RSMo, which are essentially revenue raising, rather than penalties or occupational/business licenses that are not essentially revenue raising, shall be considered in determining whether the taxpayer is subject to one of the taxes generally described in section 143.455.4., RSMo, in another state. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provisions of P.L. 86-272, 15 USCA Sections 381-385, and is further prohibited by federal law from imposing a franchise tax measured by net income or for the privilege of doing business, or a corporate stock tax.

(A) Example: State A requires all nonresident corporations which qualify or register in State A to pay to the secretary of state an annual license fee or tax for the privilege of doing business in the state regardless of whether the privilege is in fact exercised. The amount paid is determined according to the total authorized capital stock of the corporation, and the rates are progressively higher by bracketed amounts. The statute sets a minimum fee of fifty dollars (\$50) and a maximum fee of five hundred dollars (\$500). Failure to pay the tax bars a corporation from utilizing the state courts for enforcement of its rights. State A also imposes a corporation income tax. Nonresident Corporation X is qualified in State A and pays the required fee to the secretary of state but does not carry on any business activity in State A (although it may utilize the courts of State A). Corporation X is not taxable in State A.

(B) Example: Same facts as in the previous subsection except that Corporation X is subject to and pays the corporation income tax. Payment is *prima facie* evidence that Corporation X is subject to the net income tax of State A and is taxable in State A.

(C) Example: State B requires all nonresident corporations qualified or registered in State B to pay to the secretary of state an annual permit fee or tax for doing business in the state. The base of the fee or tax is the sum of outstanding capital stock, surplus, and undivided profits. The fee or tax base attributable to State B is determined by a three-factor apportionment formula. Nonresident Corporation X which operates a plant in State B pays the required fee or tax to the secretary of state. Corporation X is taxable in State B.

(D) Example: State A has a corporation franchise tax measured by net income for the privilege of doing business in that state. Corporation X files a return based upon its business activity in the state but the amount of computed liability is less than the minimum tax. Corporation X pays the minimum tax. Corporation X is subject to State A's corporation franchise tax.

(9) Receipts Factor. Generally, all gross receipts of a taxpayer that are received from transactions and activity in the regular course of the taxpayer's trade or business are considered receipts for purposes of the receipts factor. Where a taxpayer's entire activity in the regular course of trade or business is composed of hedging transactions or the disposition of cash or securities, such that the denominator of the receipts factor would be zero, the total receipts factor shall be one hundred percent (100%); in such instances, taxpayers are invited to apply for alternative apportionment pursuant to section 143.455.13., RSMo. Exclusion of an item from the definition of "receipts" is not determinative of its character as apportionable or nonapportionable income. The following are additional rules for determining "receipts" in various situations:

(A) In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, "receipts" includes all gross receipts from the sales of such goods or products (or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the tax period) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales less returns and allowances;

(B) When property being shipped by a seller from the state of origin to a consignee in another state is diverted while en route to a

purchaser in this state, the sales are in this state.

1. Example: The taxpayer, a produce grower in State A, begins shipment of perishable produce to the purchaser's place of business in State B. While en route, the produce is diverted to the purchaser's place of business in this state in which state the taxpayer is subject to tax. Receipts from this sale by the taxpayer are attributed to this state;

(C) In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, "receipts" includes the entire reimbursed cost plus the fee;

(D) In the case of a taxpayer engaged in providing services, such as the performance of equipment service contracts or research and development contracts, "receipts" includes the gross receipts from the performance of such services, including fees, commissions, and similar items;

(E) In the case of a taxpayer engaged in the sale of equipment used in the taxpayer's trade or business, where the taxpayer disposes of the equipment under a regular replacement program, "receipts" includes the gross receipts from the sale of this equipment. For example, a truck-based delivery company that owns a fleet of trucks and sells its trucks under a regular replacement program the gross receipts from the sale of the trucks would be included in "receipts"; and

(F) For purposes of determining the receipts factor, receipts are presumed not to include: 1) damages and other amounts received as the result of litigation; 2) where the taxpayer is an agent of another, property acquired by that agent on behalf of another; 3) tax refunds and other tax benefit recoveries; 4) contributions to capital; 5) income from forgiveness of indebtedness; 6) amounts realized from exchanges of inventory that are not recognized by the *Internal Revenue Code*; or 7) amounts realized as a result of factoring accounts receivable recorded on an accrual basis; and 8) repayment of loan principal.

(10) Ultimate Beneficiary Approximation. In the event that the ultimate beneficiary is a corporation or other entity that owns, or operates in, locations in multiple states, and the extent to which the ultimate beneficiary is located in Missouri is not reasonably determinable—

(A) The extent to which the ultimate beneficiary is located in Missouri may be reasonably approximated as the ratio of the ultimate beneficiary's locations in Missouri to the number of its locations throughout the United States;

(B) If the ratio in subsection (10)(A) above is not reasonably determinable, the extent to which that ultimate beneficiary is located in Missouri may be approximated as the ratio of one to the number of states in which the ultimate beneficiary operates; and

(C) If the ratio in subsection (10)(B) is not reasonably determinable, the extent to which the ultimate beneficiary is located in Missouri may be approximated as fifty percent (50%). A taxpayer shall not be subject to an addition to tax for negligence in relying upon this approximation.

(11) Alternative Apportionment by the Director. Consistent with section 143.455.13., RSMo, the director may adjust a taxpayer's return to utilize, or if no return was filed the director may utilize in estimating Missouri taxable income, an alternative apportionment method in order to equitably allocate and apportion the corporation's income. In this event, a taxpayer adversely affected by this determination challenges such a determination by raising it as an issue in the taxpayer's protest of a notice of deficiency under section 143.631, RSMo, or refund denial under section 143.841, RSMo. Whether the director has proven the requirements of section 143.455.13.(3)(a)-(b), RSMo, by a preponderance of the evidence is a determination within the director's discretion.

(12) Petition for Alternative Apportionment by the Taxpayer. A taxpayer may seek alternative apportionment under section 143.455.13.(2), RSMo by filing a petition in the manner prescribed

on the director's website or latest corporate income tax return instructions. A petition is subject to denial if it fails to comport with the definition of petition set forth in this regulation. A denial by the director may be appealed to the Administrative Hearing Commission consistent with section 621.050, RSMo.

(13) Transactions and Activity in the Regular Course of the Taxpayer's Trade or Business. For a transaction or activity to be in the regular course of the taxpayer's trade or business, the transaction or activity need not be one that frequently occurs in the trade or business. Most, but not all, frequently occurring transactions or activities will be in the regular course of that trade or business. It is sufficient to classify a transaction or activity as being in the regular course of a trade or business, if it is reasonable to conclude transactions of that type are customary in the kind of trade or business being conducted or are within the scope of what that kind of trade or business does. However, even if a taxpayer frequently or customarily engages in investment activities, if those activities are for the taxpayer's mere financial betterment rather than for the operations of the trade or business, such activities are not in the regular course of the taxpayer's trade or business. Examples of income from activity in the regular course of the taxpayer's trade or business include, but are not limited to:

(A) Income from sales of inventory, property held for sale to customers, and services which are commonly sold by the trade or business; and

(B) Income from the sale of property used in the production of apportionable income of a kind that is sold and replaced with some regularity, even if replaced less frequently than once a year.

(14) Unitary Business of the Taxpayer.

(A) A unitary business is a single economic enterprise that is made up either of separate parts of a single entity or of a commonly controlled group of entities that are sufficiently interdependent, integrated, or interrelated through their activities so as to provide synergy, mutual benefit, the sharing or exchange of value among them, or a significant flow of value to the separate parts of the economic enterprise. This sharing, exchange, or flow of value may also be described as requiring that the operation of one (1) part of the business be dependent upon, or contribute to, the operation of another part of the business. If the activities of one (1) business either contributes to the activities of another business or are dependent upon the activities of another business, those businesses are part of a unitary business. A single taxpayer may have more than one (1) unitary business.

(B) A unitary business may exist within a single taxpayer or among a commonly controlled group of taxpayers. A taxpayer's formal business organization structure is not determinative of a taxpayer's unitary business.

(C) The purpose of this subsection is to clarify the concept of "unitary business" to aid in determining a taxpayer's apportionable income. A taxpayer's apportionable income includes, but is not necessarily limited to, the income from one (1) or more unitary business(es) of the taxpayer, any part of which is conducted within Missouri. An item of income is from a unitary business if it is described by either sections 143.455.3.(1)(a)a. or 143.455.3.(1)(a)b., RSMo, but the concept of unitary business income is not necessarily limited to income described in those statutory provisions.

(D) The factors of functional integration, centralization of management, and economies of scale, alone or in combination, provide evidence of whether a set of business activities constitutes a unitary business. Further indicators providing evidence of a unitary business include business activities in the same line of business or business activities which are steps in a vertical business process.

(E) Nothing in this section should be construed to create a "combined reporting" requirement under which a taxpayer is obligated to include in its consolidated group on its consolidated Missouri tax return all entities with which the taxpayer has a unitary business relationship.

(F) A taxpayer's unitary business is presumed to include, but is not presumptively limited to, the industry description within the North American Industry Classification System corresponding to the Principal Business Activity Code(s) reported on the taxpayer's federal income tax return or related filings.

*AUTHORITY: section 143.961, RSMo 2016, and section 143.455, RSMo Supp. 2020. Original rule filed Sept. 8, 2020.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Administration Division, 301 W High Street, Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RULE**

**12 CSR 10-2.255 Allocation and Apportionment for Nonresident Shareholders of S Corporations and Nonresident Partners of Partnerships (Beginning on or After January 1, 2020)**

*PURPOSE: This rule interprets and applies sections 143.421 and 143.471, RSMo, for purposes of determining the adjusted gross income from a shareholder's pro rata share of items of S corporation income, gain, loss, or deduction and the adjusted gross income of a nonresident partner from the partnership's items of income, gain, loss, or deduction.*

(1) Definitions.

(A) Missouri allocated income. That portion of an entity's nonapportionable income, as that term is used in section 143.455, RSMo, that is allocated to Missouri under any of the provisions of section 143.455, RSMo or any other applicable provision of Missouri law.

(B) Missouri apportioned income. The income figure arrived at by multiplying an entity's net income, less nonapportionable income, as that term is used in section 143.455, RSMo, by the receipts factor provided in section 143.455.10., RSMo.

(2) S Corporation Income Derived from Sources Within this State. For all tax years beginning on or after January 1, 2020, items of S corporation income, gain, loss, or deduction entering into a nonresident shareholder's federal adjusted gross income are from sources within this state to the extent that—

(A) The S corporation would include that item in its Missouri Apportioned Income by applying the provisions of section 143.455, RSMo, and the regulations issued in connection with section 143.455, RSMo, (including any applicable regulations applying to unique industries); or

(B) The S corporation would include that item in its Missouri Allocated Income by applying the provisions of section 143.455, RSMo, and the regulations issued in connection with section 143.455, RSMo, (including any applicable regulations applying to unique industries).

(3) Partnership Income Derived from Sources within this State. For

all tax years beginning on or after January 1, 2020, items of partnership income, gain, loss, or deduction entering into a nonresident partner's federal adjusted gross income are from sources within this state to the extent that—

(A) The partnership would include that item in its Missouri Apportioned Income by applying the provisions of section 143.455, RSMo, and the regulations issued in connection with section 143.455, RSMo, (including any applicable regulations applying to unique industries); or

(B) The partnership would include that item in its Missouri Allocated Income by applying the provisions of section 143.455, RSMo, and the regulations issued in connection with section 143.455, RSMo, (including any applicable regulations applying to unique industries).

(4) For purposes of applying this regulation, any references in section 143.455, RSMo to the term "corporation" shall be deemed to refer instead to the type of entity to which this regulation is applied.

*AUTHORITY: sections 143.421 and 143.961, RSMo 2016, and section 143.471.4, RSMo Supp. 2020. Original rule filed Sept. 8, 2020.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Administration Division, 301 W High Street, Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 2—Income Tax**

**PROPOSED RULE**

**12 CSR 10-2.260 Apportionment Method for Broadcasters (Beginning on or After January 1, 2020)**

*PURPOSE: This rule applies section 143.455.13.(1), RSMo to implement an alternative corporation income tax apportionment method for broadcasters.*

(1) For any taxpayer that is a broadcaster as defined in subsection (2)(A) of this rule and files its original income tax return on or after January 1, 2020, shall use the apportionment method set forth in section (5) of this rule to compute its Missouri taxable income from sources in this state.

(2) Definitions.

(A) "Broadcaster" is a taxpayer that is a television broadcast network, a cable program network, or a television distribution company. The term "broadcaster" does not include a platform distribution company.

(B) "Broadcast customer" is a person, corporation, partnership, limited liability company, or other entity, such as an advertiser or a platform distribution company, that has a direct connection or contractual relationship with the broadcaster under which revenue is derived by the broadcaster.

(C) "Business customer" is a customer that is a business operating in any form, including an individual who operates a business through

the form of a sole proprietorship. Sales to a non-profit organization, to a trust, to the U.S. government, to any foreign, state, or local government, or to any agent or instrumentality of such government shall be treated as sales to a business customer and shall be apportioned consistent with the rules that apply to such sales.

(D) "Commercial domicile" is the principal place from which the trade or business of the business entity is directed or managed.

(E) "Corporation" is an entity defined in section 143.441.1.(1), RSMo.

(F) "Film programming" is one (1) or more performance, event, or production, or segments of performances, events, or productions, intended to be distributed for visual and/or auditory perception, including, but not limited to, news, entertainment, sporting events, plays, stories, or other literary, commercial, educational, or artistic works.

(G) "Income tax return" is the Missouri Corporation Income Tax Return for the taxable year.

(H) "Individual customer" is any customer who is not a business customer as defined in subsection (2)(C) of this rule.

(I) "Original return" is the initial income tax return filed for the taxable year, and does not mean an amended income tax return filed for a taxable year for which a corporation has previously filed any income tax return.

(J) "Platform distribution company" is a cable service provider, a direct broadcast satellite system, an internet content distributor, or any other distributor that directly charges viewers for access to any film programming.

(K) "Taxable year" is the same period the corporation uses for reporting its federal income tax liability under the *Internal Revenue Code of 1986*, as amended.

(3) Sourcing of Receipts from Broadcast Advertising Services. Notwithstanding anything herein to the contrary, receipts from a broadcaster's sale of advertising services to a broadcast customer are sourced to Missouri if the commercial domicile of the broadcast customer is in Missouri. For purposes of this provision, "advertising services" means an agreement to include the broadcast customer's advertising content in the broadcaster's film programming.

(4) Sourcing of Receipts from Licenses of Broadcasting Intangibles. Where a broadcaster grants a license to a broadcast customer for the right to use film programming, the licensing fees paid by the licensee for such right are sourced to Missouri to the extent that the broadcast customer is located in Missouri. In the case of business customers, the broadcast customer's location shall be determined using the broadcast customer's commercial domicile. In the case of individual customers, the broadcast customer's location shall be determined using the address of the broadcast customer listed in the broadcaster's records.

(5) Alternative Apportionment Method for Broadcasters. A taxpayer who is a broadcaster shall apportion its apportionable income to this state by multiplying the net income by a fraction, the numerator of which is the sum of the taxpayer's receipts from broadcast advertising services sourced to Missouri under section (3) of this rule plus the taxpayer's receipts from licenses of broadcast intangibles sourced to Missouri under section (4) of this rule and the denominator of which is the sum of the taxpayer's total receipts from broadcast advertising services from all sources plus the sum of the taxpayer's total receipts from licenses of broadcast intangibles from all sources.

*AUTHORITY: section 143.961, RSMo 2016, and section 143.455.13, RSMo Supp. 2020. Original rule filed Sept. 8, 2020.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Administration Division, 301 W High Street, Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## Title 12—DEPARTMENT OF REVENUE Division 10—Director of Revenue Chapter 102—Sales/Use Tax—Taxpayers Rights

### PROPOSED AMENDMENT

**12 CSR 10-102.016 Refunds and Credits.** The department is amending the purpose and sections (1)-(3).

*PURPOSE: This proposed amendment is necessary to conform to changes made to section 144.190, RSMo.*

*PURPOSE: section 144.190, RSMo permits a [taxpayer] seller to file a claim for refund of an over-payment of sales or use taxes resulting from a mistake of fact or law and it permits a purchaser that is not able to obtain a refund of an over-payment of sales or use tax from the seller to file a claim for refund with the department. Section 144.100, RSMo requires a [taxpayer] seller to file an amended return to correct an error or omission on a return. Section 144.746, RSMo allows the [taxpayer] seller and the department to extend by agreement the time to file a claim for refund. Section 144.030.2[(23)](24), RSMo establishes special refund procedures for purchasers of domestic utilities under a non-domestic utility rate classification. This rule explains requirements for obtaining a refund or credit on overpayment of sales and use taxes.*

(1) In general, if a [taxpayer] seller has overpaid tax, the [taxpayer] seller may file a claim for a refund with the department. **If a purchaser is not able to obtain a refund from the seller, the purchaser may qualify to file a claim for refund with the department.**

(2) Basic Application [of Tax].

(A) A [taxpayer] seller may file a claim for a refund within [three (3)] **ten (10)** years after the date of an overpayment. The date of the overpayment is the due date of the original return or the date paid whichever is later. The department will not consider a claim unless it is filed within the [three- (3-)] **ten- (10-)** year period. Every claim must be in writing, signed by the applicant, and must state the specific grounds upon which the claim is founded. If the overpayment is due to an error or omission in a previously filed return, the claim must be accompanied by an amended return for each period in which the tax was originally reported. If the error or omission is corrected in the return immediately following the filing period in which the error or omission occurred, no amended return or claim for refund is required.

(B) The person requesting the refund or credit must be the person who is legally obligated to remit the tax to the Department of Revenue. **If a taxpayer or the purchaser that originally paid the tax to the seller. A purchaser seeking a refund of an erroneously [pays sales tax to a vendor, the taxpayer should] paid tax must first seek a refund from [that vendor. Vendors] the seller. A seller may file a claim on behalf of the purchaser by submitting a claim for refund and amended returns for the period(s) in which the tax was erroneously remitted or the seller may provide an assignment of rights to the purchaser to file the claim for refund. The purchaser may also file a claim for refund with the department**

if—

1. The seller refuses to assign the rights to file a claim for refund within sixty (60) days of the date of the purchaser's written request to the seller;

2. The seller is out of business; or

3. The purchaser cannot locate the seller.

The claim by the purchaser is subject to any offset, defense, or any claim the director has against the purchaser or the seller.

*[(C) The department will issue a statement approving the credit in the amount of the overpayment instead of a refund if the taxpayer requests a credit on the claim. The credit may be applied to any subsequent tax liability by attaching the approved credit authorization form to the return to which the credit is being applied. In no case, however, should a person take a credit for any overpayment of tax unless prior approval has been obtained from the department. If it is determined later that the person will incur no future liability, for example the business is closed, the credit may be returned to the department for a refund.]*

(C) The department will notify a registered seller of refund claims filed by a purchaser without the seller's assignment of rights. If the seller objects to the refund claim, the department will not pay the refund. If the seller agrees that the purchaser may pursue a refund claim, or fails to respond to the notification within thirty (30) days of the date of notification, the department will process the refund and will amend the return of the seller to reflect the refund if granted. A refund claim will not be considered filed until the seller agrees the purchaser may pursue a refund claim or thirty (30) days after the department has notified the seller of the purchaser's claim.

(D) The department will issue a statement approving a credit in the amount of the overpayment instead of a refund if the seller requests a credit on the claim. A seller cannot take a credit for any overpayment of tax unless prior approval has been obtained from the department. If it is determined later that the seller will incur no future liability, for example if the business is closed, the seller may return the credit authorization to the department and request a refund. A purchaser may not obtain a credit.

*[(D)](E) If a sale is rescinded, no amended return or claim for refund is required. The seller may adjust its gross receipts on its next filed return. [However, t]The adjustment may not exceed the gross receipts for the filing period.*

*[(E)](F) [Interest is] Section 32.068, RSMo, establishes the interest rate paid on [all] refunds [at a rate established pursuant to section 32.057, RSMo]. Interest does not apply to a credit.*

*[(F) No refunds will be granted for illegally or erroneously overcharged or overcollected sales tax incident to credit card discounts, imposition of sales tax by the retailer upon amounts representing cigarette tax imposed under Chapter 149, RSMo, or imposition of sales tax by the retailer upon amounts representing tax on sales of beer, liquor or wine under Chapter 311, RSMo.]*

(G) The [department may recover any refund or credit erroneously made or allowed in an action against the person legally obligated to remit the tax.] seller and the department may extend, by agreement, the period allowed for filing a claim for refund. Such an agreement is allowed only if the time for filing a claim for refund has not yet expired.

(H) *[A person making] In addition to the refund claim procedure described above, a purchaser of taxable, non-domestic [purchases of] utility services [and] using any portion of the services for nontaxable domestic use may [apply for] also claim a [credit or] refund [on the domestic use portion of] from the [purchase. In addition, a person making] department on the domestic [purchases] use portion of the purchase. A purchaser of utility services [on behalf of] for domestic use for occupants of residential apartments, condominiums, and nursing homes through a single or master meter, may [also apply for a credit or] claim a*

refund on the domestic use portion of the purchase. Domestic use], which includes common areas and facilities as well as vacant units. The claim for refund must be filed between the first day of the first month and the fifteenth day of the fourth month following the year of purchase.

*[(I) Alternatively, the purchaser of nontaxable, domestic use utility services may request the utility company to apply for a refund on the domestic portion of its utility purchases. The utility company, as the seller of utilities, has three (3) years from the due date of its return for the period in which the domestic utilities were sold to file a claim for refund on behalf of the purchaser.*

*[(J) The taxpayer and the department may extend by agreement the period allowed for filing a claim for refund. However, such an agreement is allowed only if the time for filing a claim for refund has not yet expired.]*

(3) Examples.

(A) A [vendor] seller collects tax on a sale to a customer that takes place in August and reports it on its August sales tax return. In October, that customer presents a valid exemption certificate for the August sale. To claim a refund, the [vendor] seller must complete a claim for refund and submit it with a copy of the invoice, the customer's exemption certificate and an amended August return.

(B) A carpet [vendor] seller determines that in the past [three (3)] ten (10) years it has been collecting and remitting sales tax on carpet sales in which it is also installing the carpet in homes and businesses. The [vendor] seller purchases its carpet from a wholesaler located outside of the state. Therefore, the carpet [vendor] seller should have been paying use tax on its purchases of the carpet from its wholesaler and selling its carpet without charging sales tax on its installation sales. The [vendor] seller should complete amended sales tax returns for each period during the [three (3)] ten (10) years and amended use tax returns for each period during the [three (3)] ten (10) years. If the amended returns result in an overpayment, the carpet [vendor] seller may claim a refund by completing a refund application.

(D) A manufacturer discovers it paid tax on its purchase of a piece of equipment that qualified for an expanded plant exemption. The manufacturer purchased the equipment from an equipment supply company who reported the tax to the department. The supply company [must] may request the refund from the department on behalf of the manufacturer by submitting a refund application, the manufacturer's exemption certificate, and an invoice of the sale or the supply company may provide the manufacturer an assignment of rights statement allowing the manufacturer to file the refund claim with the department.

*[(E) In March 1999, a taxpayer discovers it paid tax on a January 1996 sale for which it has an exemption certificate. The taxpayer submits a refund application for the exempt sale. Because the due date of the original January 1996 return was February 20, 1996, the refund application will be denied because it is not within the three (3)-year statute of limitations.*

*[(F) In 1997, an apartment complex under a non-domestic rate classification pays the water bill, including sales tax, to the utility company for the entire complex. The apartment complex may file a claim for refund on its 1997 purchases of water prior to April 15, 1998.*

*[(G) A nursing home that is under a nondomestic rate classification pays for the electricity, including tax for the entire facility in 1996, 1997 and 1998. The electric company may file a claim for refund on behalf of the nursing home in January 1999, as long as it is filed within three (3) years of the due date of the earliest return.*

*[(H) The department begins an audit on a taxpayer on June 1, 1999, that will cover the tax periods May 1996 through May 1999. The department and the taxpayer may enter into*

*an agreement to extend the period for issuing an assessment and for filing a claim for refund for a specified period of time. The agreement must be made before the original expiration date for issuing the assessment or claiming the refund and may be extended by subsequent agreements.]*

(E) In September 2019, a taxpayer discovers it paid tax on a January 2009 sale for which it has an exemption certificate. The taxpayer submits a refund application for the exempt sale. Because the due date and the date paid of the original January 2009 return and payment was February 20, 2009, the refund application will be denied because it is not within the ten- (10-) year statute of limitations.

(F) In 2017, an apartment complex under a non-domestic rate classification pays the water bill, including sales tax, to the utility company for the entire complex. The apartment complex may file a claim for refund on its 2017 purchases of water prior to April 15, 2018.

(G) A nursing home that is under a non-domestic rate classification pays for the electricity, including tax for the entire facility in 2010, 2011, and 2012. The electric company may file a claim for refund on behalf of the nursing home in January 2020, as long as it is filed within ten (10) years of the due date or the date paid whichever is later.

(H) A purchaser purchases manufacturing equipment on July 1, 2012, and pays sales tax on the purchase. On October 1, 2012, the purchaser presents an exemption certificate to the seller and requests the seller in writing to file a refund request for the taxes paid. The seller does not respond to the purchaser's request within sixty (60) days. The purchaser then files a refund claim with the department and the department notifies the seller of the claim for refund. The seller does not respond to the department's notification. The department verifies that the equipment qualifies for the exemption and the taxes paid on the purchase. The department issues the refund to the purchaser.

(I) A purchaser purchases manufacturing equipment on July 1, 2012, and pays sales tax on the purchase. On October 1, 2012, the purchaser presents an exemption certificate to the seller and requests the seller in writing to file a refund for the taxes paid. The seller does not respond to the purchaser's request within sixty (60) days. The purchaser then files a refund claim with the department and the department notifies the seller of the claim for refund. The seller responds to the department's notification and directs the department to not refund the tax. The department cannot issue the refund to the purchaser.

*AUTHORITY: section 144.270, RSMo [2000] 2016. This rule originally filed as 12 CSR 10-110.016. Original rule filed Sept. 29, 1999, effective March 30, 2000. Changed to 12 CSR 10-102.016 Dec. 31, 2000. Amended: Filed April 1, 2002, effective Oct. 30, 2002. Amended: Filed Sept. 8, 2020.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Administration Division, 301 W High Street, Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

**PROPOSED RULE**

**20 CSR 2220-2.680 Class R-Remote Dispensing Site Pharmacy**

*PURPOSE: This rule defines licensing requirements and compliance standards for Class-R Remote Dispensing Site pharmacies.*

(1) Definitions.

(A) "Community Mental Health Center"—A community mental health center as defined by 42 CFR section 410.2, section 205.975, RSMo, or the Missouri Department of Mental Health.

(B) "Federally qualified health center"—A federally qualified health center as defined by 42 U.S.C. section 1396d(l)(2)(B), as amended.

(C) "Intern Pharmacist"—An individual who holds a current and active Missouri intern pharmacist license and has completed employer approved training in the activities to be performed at the Class R pharmacy and has an initial and annual documented assessment of competency.

(D) "Outpatient Clinic"—A facility where healthcare services are provided by a licensed healthcare provider on the facility's premises to patients who are not hospitalized or admitted to the outpatient clinic for greater than twenty-three (23) hours.

(E) "Qualified Pharmacy Technician"—A currently registered Missouri pharmacy technician who—

1. Holds an active pharmacy technician certification issued by a certification entity accredited by the National Commission for Certifying Agencies;

2. Has completed employer approved training in the activities to be performed at the Class R pharmacy and has an initial and annual documented assessment of competency; and

3. Has assisted in the practice of pharmacy as a registered pharmacy technician in the state of Missouri for a minimum of one (1) year.

(F) "Remote Dispensing Site Pharmacy"—Any location in this state where the practice of pharmacy occurs that is staffed by one (1) or more qualified pharmacy technicians or intern pharmacists whose activities are supervised by a pharmacist at a supervising pharmacy that is under common ownership through a continuous real-time audio and video link. A remote dispensing site pharmacy does not include a dispensing prescriber's office or an automated device.

(G) "Retail Pharmacy"—A pharmacy licensed by the board that is open to, and offers pharmacy services to, the general public.

(H) "Rural Health Clinic"—A rural health clinic as defined by the federal Rural Health Clinic Services Act, PL. 95-210, as amended.

(I) "Supervising pharmacy"—A Missouri licensed pharmacy located in this state or approved by the board that oversees the dispensing activities of a Class R pharmacy.

(2) A Class R pharmacy permit is required for any Missouri location operating, or offering to operate, as a remote dispensing site pharmacy in Missouri. Applications for a Class R permit must be submitted on a form approved by the board with the pharmacy permit fee, in accordance with 20 CSR 2220-2.020.

(A) Class R pharmacy permits expire and must be renewed, as provided by Chapter 338, RSMo and 20 CSR 2220-2 for pharmacy permits. Renewal applications must be submitted on a form approved by the board with the applicable renewal fee.

(B) Class R pharmacies must be located at least ten (10) miles away from an existing retail pharmacy unless the Class R pharmacy is part of a community mental health center, federally qualified health center, rural health clinic, or outpatient clinic setting. Requests to waive the mileage requirement may be submitted to the



board in writing along with documentation supporting the request. The board will consider the following factors when determining whether to grant a waiver request:

1. The availability of pharmacy services in the proposed pharmacy area;
2. The nature of proposed Class R pharmacy services;
3. Benefits or risks to patient care;
4. The applicant's and supervising pharmacy's experience and compliance history; and
5. Any other factor that may benefit or adversely impact patient safety.

(C) Class R pharmacies shall be authorized to provide Class A, Class B, and Class C pharmacy services with a Class R permit. Class R pharmacies must apply for and hold the applicable pharmacy permit classification identified in section 338.220, RSMo, for any additional pharmacy services provided by the pharmacy. A Class J Shared services permit is not required for Class R pharmacies engaged in shared pharmacy services with the supervising pharmacy. If the Class R pharmacy is engaged in Class J shared services with another pharmacy, or has an arrangement to provide or receive Class J shared services with another pharmacy, the supervising pharmacy, the remote dispensing site, and all involved pharmacies must have a Class J shared services permit and comply with 20 CSR 2220-2.650.

(D) By the tenth day following each calendar quarter, Class R pharmacies must calculate the average number of prescriptions dispensed by the pharmacy per day during the previous calendar quarter, excluding immunizations given by protocol (e.g., January 10, April 10, July 10, October 10).

1. If the average number of prescriptions or medication orders dispensed by the pharmacy during the previous quarter exceeds one hundred fifty (150) prescriptions/medication orders per day, excluding immunizations given by protocol, the pharmacy must apply for a change of classification to add a Class A, B, or C permit classification within ten (10) days of discovery. Change of classification requests must be submitted on a form approved by the board with the applicable fee. Class R operations must cease once a Class A, B, or C permit is issued by the board.

2. Class R operations may resume if the daily average number of prescriptions dispensed by the pharmacy does not exceed one hundred fifty (150) prescriptions/medications orders during a calendar quarter (January 1–March 31, April 1–June 30, July 1–September 30, or October 1–December 31). The pharmacy's Class A, B, or C pharmacy classification must be surrendered to the board within five (5) days of resuming Class R operations.

(3) Supervising Pharmacies. Class R pharmacies must be under the supervision of a supervising pharmacy, as required by section 338.215, RSMo. The supervising pharmacy must ensure the Class R pharmacy is properly and safely operated in compliance with applicable state and federal law. Effective policies and procedures must be in place to ensure appropriate oversight of a Class R pharmacy at all times.

(A) The supervising pharmacy and Class R pharmacy must manually or electronically maintain a current and accurate written policy and procedure manual that complies with section 338.215, RSMo.

(B) The supervising pharmacy and Class R pharmacy must share a common database or have access to each other's prescription record-keeping system. The common database or shared system must allow real-time, online access to the patient's complete profile for both the supervising pharmacy and the Class R pharmacy.

(C) Supervising pharmacies must be located in Missouri and within fifty (50) miles of the supervised Class R pharmacy site, unless otherwise approved by the board. Requests to waive the location and mileage requirements must be submitted to the board in writing along with proof the Class R pharmacy will be sufficiently supported by the supervising pharmacy and that necessary personnel or supplies can be delivered to the Class R pharmacy within a reasonable period of time of an identifiable need. The board will also consider the factors

identified in subsection (2)(B) of this rule when reviewing a waiver request.

(D) A Class R pharmacy must immediately cease operations if the supervising pharmacy and Class R pharmacy are no longer under common ownership, the supervising pharmacy is no longer eligible to supervise the Class R pharmacy, or the supervising pharmacy's Missouri pharmacy permit is not current and active. Class R operations may resume once the supervising pharmacy's permit returns to active or eligible status or common ownership is reestablished.

(4) Class R Standards of Operation. Except as otherwise authorized by law, Class R pharmacies must comply with all laws and regulations applicable to the pharmacy services provided by the Class R pharmacy, including, 20 CSR 2220-2.010.

(A) Class R pharmacies must be staffed by a current and active Missouri licensed pharmacist at least eight (8) hours a month. At a minimum, the pharmacist-in-charge (PIC) of the Class R pharmacy must visit the remote dispensing site weekly during the first month of operation to verify compliance and monthly thereafter. The date of the monthly PIC compliance visit must be documented in the pharmacy's records.

(B) Class R pharmacies must maintain a perpetual inventory for all controlled substances that is reconciled twice per month. The PIC must review the reconciliation for accuracy/discrepancies during the compliance visits required by subsection (4)(A).

(C) A prominent sign must be posted at the Class R pharmacy notifying patients that the remote dispensing site is supervised by the supervising pharmacy along with the supervising pharmacy's name, address, and telephone number.

(D) Intern pharmacists and qualified pharmacy technicians activities must be supervised by a Missouri-licensed pharmacist present at the Class R pharmacy or remotely supervised by a Missouri-licensed pharmacist located at the supervising pharmacy using technology that provides a continuous real-time audio and video link. The required technology must allow the supervising pharmacist to provide the personal assistance, direction, and approval needed to verify and ensure remote tasks are safely and properly performed. The supervising pharmacist must be employed by the supervising pharmacy, as required by section 338.215, RSMo, and must be competent to perform the services being supervised. A pharmacist cannot supervise more than two (2) Class R pharmacies at the same time.

(E) A Class R pharmacy may not be operated if the required supervision technology is unavailable or not in working order unless a pharmacist is onsite. The no pharmacist on duty sign required by 20 CSR 2220-2.010 must be posted in the event of a technology or system malfunction that requires the Class R pharmacy to cease operations.

(5) Medication Dispensing. Prescriptions/Medication orders may be prepared, dispensed, or compounded at a Class R pharmacy, as authorized by section 338.215, RSMo, and the rules of the board.

(A) The final contents and label of a prescription/medication order must be verified by a Missouri licensed pharmacist at the Class R pharmacy, or remotely verified by a Missouri licensed pharmacist located at the supervising pharmacy through the use of technology that includes bar coding and visual review of the medication contents and affixed label via remote video. The verifying pharmacist must be employed by the supervising pharmacy, as required by section 338.215, RSMo.

(B) Patient counseling must be provided for all new and refill prescriptions, unless refused by the patient. The required patient counseling must be provided by a Missouri licensed pharmacist at the Class R pharmacy or remotely provided by a Missouri licensed pharmacist at the supervising pharmacy via a HIPAA-compliant continuous real-time video and audio link, as authorized by section 338.215, RSMo. Medication may not be dispensed without a pharmacist physically present at the Class R pharmacy if the required counseling technology is not available or in working order. Remote

patient counseling via technology may not be delegated to an intern pharmacist.

(C) Policies and procedures must be established to ensure appropriate pharmacist review of verbal prescription orders received by an intern pharmacist or qualified pharmacy technician at a Class R pharmacy when a pharmacist is not present.

(6) Adequate security and supervision must be maintained at all times to prevent unauthorized access to a Class R pharmacy and prevent medication theft and diversion.

(A) An alarm mechanism must be maintained that alerts the supervising pharmacy or the Class R pharmacist-in-charge in the event of unauthorized access to the remote dispensing site. Unauthorized access to a Class R pharmacy must be documented and reported to the board in writing within seven (7) days of discovery.

(B) Confidential records must be securely maintained to prevent unauthorized access and ensure secure data access and storage at all times.

(7) Record-Keeping.

(A) Except as otherwise provided by law, Class R pharmacies shall comply with all applicable record-keeping and documentation requirements of Chapter 338, RSMo, and the board's rules.

(B) Class R pharmacies must also maintain documentation of—

1. The number of prescriptions dispensed by the Class R pharmacy each calendar quarter; and

2. Proof that qualified pharmacy technicians and intern pharmacists assisting at a Class R pharmacy have completed the experience, training, and competency assessment required by this rule.

(C) Records required by this rule must be manually or electronically maintained for two (2) years at the Class R pharmacy, or at the supervising pharmacy if the Class R pharmacy is no longer operating, and must be readily retrievable on request of the board or the board's authorized designee.

*AUTHORITY: section 338.280, RSMo 2016, and sections 338.140 and 338.215, RSMo Supp. 2020. Original rule filed Sept. 3, 2020.*

*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 cost private entities thirteen thousand eight hundred ninety-five dollars and twenty cents (\$13,895.20) annually over the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at [pharmacy@pr.mo.gov](mailto:pharmacy@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this rule in the **Missouri Register**. No public hearing is scheduled.*

<b>FISCAL NOTE PRIVATE COST</b>
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- I. Department Title:** Department of Commerce and Insurance  
**Division Title:** State Board of Pharmacy  
**Chapter Title:** General Rules

<b>Rule Number and Title:</b>	<b>20 CSR 2220-2.680 Class R - Remote Dispensing Site Pharmacy</b>
<b>Type of Rulemaking:</b>	<b>Proposed Rule</b>

**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:
10	New Class R Pharmacy Applicants Per Year	\$ 13,895.20 <i>in the aggregate recurring annually over the life of the rule</i>

**III. ASSUMPTIONS/WORKSHEETS**

The following general estimations were used to calculate private fiscal costs:

1. The proposed rule/emergency rule requires an additional three (3) weekly visits to a Class R pharmacy by the designated pharmacist-in-charge during the first month of Class R operations.
2. Class R pharmacies are a newly licensed pharmacy classification, effective August 28, 2020. Accordingly, insufficient data exists to estimate the number of potential Class R pharmacy applicants per year or full fiscal impact. Based on staff research and licensee feedback, however, the Board estimates the following:
  - Approximately ten (10) new Class R pharmacy applications will be submitted annually.
  - One (1) additional hour of pharmacist time would be required under the rule for each weekly compliance visit, with an estimated pharmacist-in-charge hourly salary of \$ 72.34. The estimated hourly salary is based on an average pharmacist hourly salary of \$ 60.34 as reflected in 2019 data from the United States Bureau of Labor Statistics Occupational Employment and Wages, with a 20% enhancement for a supervisory pharmacist-in-charge.
  - A remote dispensing site must be within fifty (50) miles of the supervising pharmacy, pursuant to § 338.215.10. Accordingly, the Board estimates round-trip mileage of 100 miles per compliance visit, although actual mileage may be significantly lower. The Board further estimates a mileage reimbursement rate of 57.5 cents per mile based on the 2000 standard mileage reimbursement rate recognized by the United States Internal Revenue Service.

3. Accordingly, the Board estimates an aggregate private fiscal impact for the required compliance visits of \$ 3,895.20 per year, recurring annually over the life of the rule (\$ 72.34 pharmacist hourly salary x 1 hour per compliance visit x 3 additional compliance visits x 10 new pharmacy applicants per year plus \$ 1,725 mileage reimbursement (100 miles per compliance visit x 3 compliance visits x 10 Class R pharmacies x 57.5 cents per mile)).
4. To ensure security of drugs and confidential patient records, the rule requires that Class R pharmacies have an alarm mechanism that alerts the supervising pharmacy or designated pharmacist-in-charge in the event of unauthorized access. The Board estimates the minimum required alarm equipment and notification system will cost each pharmacy approximately \$ 1,000 per year, with a total estimated annual fiscal cost of \$10,000 per year recurring annually over the life of the rule (\$ 10,000 alarm costs x 10 Class R pharmacies).
5. Total estimated costs may vary with inflation and increase at the rate projected by the Legislative Oversight Committee and the Internal Revenue Service.

**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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: 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 10-7.405 General Provisions is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2020 (45 MoReg 992). 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 Conservation Commission received four (4) comments from thirty-eight (38) individuals on the proposal to authorize the use of an artificial light to search for, spot, and locate coyotes from February 1 through March 31.

**COMMENT #1:** Richard Shinn, Rockwell City; Matthew Wilson, Cassville; Kaden Wilson, Cassville; Rylan (no last name), Cassville; Hank Wilson, Cassville; Danny White, Orrick; Sam Elia, Bourbon; Gary Burkemper, O'Fallon; Michael Miller, Doniphan; Kevin Curran, Union; Thomas Gruenes, Spickard; Matthew Heinlein, Ava; Alex Mullock, Kansas City; David Wilson, Springfield, and Josh Schannuth, Hermann, expressed general support for the proposed amendment.

**RESPONSE:** The commission thanks these individuals for their support of the proposed amendment.

**COMMENT #2:** Matthew Schumann, Jacksonville; Paul (no last name), Bowling Green; Jerrod Battson, Slater, and Dale Bienusa, Kirksville; expressed general support for the proposed amendment, however; specific comments included suggestions for alternate dates. **RESPONSE:** The commission thanks these individuals for their support of the proposed amendment. The dates selected for when an artificial light may be used to pursue coyotes are necessary to promote public safety, protect and minimize harassment of other wildlife, and aid in the enforcement of the regulations. An artificial light may also be used throughout the year to address property damage caused by coyotes and other wildlife with written authorization from an agent of the department. No changes have been made to the amendment as a result of this comment.

**COMMENT #3:** Ross Shewey, Stewartsville, expressed opposition to the proposed amendment, based on concerns for harassment of wildlife during mating seasons. In addition, he voiced support for closing coyote hunting season from April 1 through August 31 to ensure a better chance of coyote pup survival.

**RESPONSE:** Amendments to this regulation include regulatory safeguards to promote public safety, protect and minimize harassment of other wildlife, and aid in the enforcement of the regulations. Population trend data for coyotes is derived from Bow Observation Surveys and Sign Station Surveys, both of which are conducted annually. Based on these population indices, the coyote population is currently considered stable but has experienced a long-term increasing trend indicating that no changes need to be made to the existing hunting season timing. No changes have been made to the amendment as a result of this comment.

**COMMENT #4:** Lori Green, Villa Ridge; MaryAnn Kindrr, Eureka; Elizabeth Sloan, (no city); John Hickey, Webster Groves; Patricia Schuba, Labadie; Christine Alt, Labadie; Roger Still, Columbia; Mandy Crume, Kansas City; Carole Behrer, Hermann; Christine Berry, Kansas City; Susanna Zerbe, St. Charles; Sara Heisel, Saint Louis; Nancy Campbell, Labadie; Celeste Smith, Labadie; Sue Kaiser, Saint Louis; Marilyn Heisel, Labadie; Christopher Berry, Kansas City, and David Wilson, Webster Groves, expressed general opposition to the proposed amendment.

**RESPONSE:** Department staff frequently receive requests from citizens to allow the use of an artificial light to pursue coyotes. Population trend data for coyotes is derived from Bow Observation Surveys and Sign Station Surveys, both of which are conducted annually. Based on these population indices, the coyote population is currently considered stable but has experienced a long-term increasing trend. Given that the proposed amendments only add additional methods by which coyotes can be taken under a restrictive time period, it is not anticipated that the coyote population will experience any negative impacts because of these changes. Additionally, coyote population indices will continue to be monitored annually. Amendments to this regulation also include regulatory safeguards to promote public safety, protect and minimize harassment of other wildlife, and aid in the enforcement of the regulations. No changes have been made to the amendment as a result of this comment.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: 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 10-7.410 Hunting Methods is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2020 (45 MoReg 992-993). 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 Conservation Commission received seven (7) comments from sixty-six (66) individuals on the proposal to establish an exemption for landowners owning real property of any size and their authorized representatives to possess, control, and use night vision, infrared, and thermal imagery equipment to kill feral swine while in possession of any implement whereby wildlife could be killed or taken, and authorize the use of an artificial light for night vision, infrared, or thermal imagery equipment in conjunction with other legal hunting methods to pursue and take coyotes from February 1 through March 31.

**COMMENT #1:** Cody Burnside, Exeter; Donald Tittle, Maysville; Mark Lanzotti, Cape Girardeau; Mike Johnson, Memphis, Jacob Beaven, Belton; Jacob (no last name) Sullivan; Ed (no last name), St. Louis; Pamela Keen, Robertsville; David (no last name), Gerald; Gary Burkemper, O'Fallon; Billy Conklin, Theodosia; Charles Henton, Cowgill; Tyler Armstrong, Luray; Matt Kappen, Troy; Christian Bolen, Troy; Randy Martin, Rutledge; Cat (no last name), Springfield; Andrew Milanowski, Comstock; Lenoard Zimmerman, Baring; Nicholas Mikel, Columbia; Mark Lensing, New Haven; Cynthia Gregston, Springfield; John Dalton, Dixon; Kale Chronister, Oldfield; Marion Kramer, Jamesport, and Hunter Lensing, New Haven, expressed general support for the proposed amendment.

**RESPONSE:** The commission thanks these individuals for their support of the proposed amendment.

**COMMENT #2:** George Pease, Hamilton; Anthony Reis, Troy; Ryan Mercer, Warrensburg; Jeff Benyshek, Lewistown; Andrew Dietrich, Warrenton; Matthew Schumann, Jacksonville; Sam Modde, Barnhart; Brandon Evans, West Plains; Marcus Anderson, Ferguson; Brian Hohe, Wentzville, and Dale Bienusa, Kirksville, expressed general support for the proposed amendment, however; specific comments included suggestions for alternate season dates.

**RESPONSE:** The commission thanks these individuals for their support of the proposed amendment. The dates selected for when an artificial light and/or night vision, infrared, or thermal imagery equipment may be used to take coyotes are necessary to promote public safety, protect other wildlife, and aid in the enforcement of the regulation. These methods may also be used throughout the year to address property damage caused by coyotes and other wildlife with written authorization from an agent of the department. No changes have been made to the amendment as a result of this comment.

**COMMENT #3:** Ross Shewey, Stewartsville, expressed opposition to the proposed amendment based on concerns that it will increase poaching. Mr. Shewey also indicated his belief the only way to control feral pigs is to trap them in groups.

**RESPONSE:** Amendments to this regulation include regulatory safeguards to promote public safety, protect other wildlife, and aid in the enforcement of the regulation. Hunting feral hogs is prohibited on conservation areas and other lands owned, leased, or managed by the commission, and hunting hogs on other lands is strongly discouraged. The commission agrees that cooperative feral swine trapping efforts between governmental entities and private landowners are essential for eliminating feral swine from Missouri's landscape. No changes have been made to the amendment as a result of this com-

ment.

**COMMENT #4:** Dan Sherburne, (no city); Laura Zacher, St. Louis; Michael Mason, Portland, OR; Susanna Zerbe, St. Charles; Sara Heisel, Saint Louis; Lisa Zerbe, Pacific; Edward Heisel, Pacific, and Caitlin Imaki, Lake Forest Park, WA, expressed opposition to the proposed amendment based on concerns fewer coyotes will lead to increases in deer, rodent, rabbit, and groundhog populations, which cause crop damage. Mr. Heisel also questioned whether the coyote carcasses will be put to any beneficial use.

**RESPONSE:** Population trend data for coyotes is derived from Bow Observation Surveys and Sign Station Surveys, both of which are conducted annually. Based on these population indices, the coyote population is currently considered stable but has experienced a long-term increasing trend. Given that the proposed amendments only add additional methods by which coyotes can be taken under a restrictive time period, it is not anticipated that the coyote population will experience any negative impacts because of these changes. Coyote population indices will continue to be monitored annually. Additionally, coyote populations can sustain high levels of harvest, and while short-term local effects may be present, long-term population-wide impacts are not likely. The ineffectiveness of historical bounties at decreasing coyote populations is evidence of this. The proposed regulatory changes are designed to provide additional methods for hunters to use and are not intended to effect change on the coyote population. The *Wildlife Code* authorizes the possession and sale of the pelts and carcasses of coyotes throughout the year. No changes have been made to the amendment as a result of this comment.

**COMMENT #5:** Terry Ganey, Columbia; Marty Derner, Washington; Lori Schuster, Webster Groves; Peggy Menke, Berger; John Behrer, Hermann; Carla Bascom, Birch Tree; Joe Pitts, Ozark; Lesa (no last name), St. Louis; Cara Artman, no city; Janine Shurts, Bourbon; Jim Sample, Salem; Abigail Lambert, Villa Ridge; Jeffery Kolb, (no city); Wallis Warren, Beaufort; Dina Vitoux, Union; Bill Blackledge, Plattsburg; Lisa Zerbe, Pacific; Mary Chipps, Ava; Judith Walter, Union, and Andy Magee, Willard, expressed general opposition to the proposed amendment.

**RESPONSE:** Department staff frequently receive requests from citizens to allow the use of an artificial light and/or night vision, infrared, or thermal imagery equipment to take coyotes and control feral swine. Population trend data for coyotes is derived from Bow Observation Surveys and Sign Station Surveys, both of which are conducted annually. Based on these population indices, the coyote population is currently considered stable but has experienced a long-term increasing trend. Given that the proposed amendments only add additional methods by which coyotes can be taken under a restrictive time period, it is not anticipated that the coyote population will experience any negative impacts because of these changes. Coyote population indices will continue to be monitored annually. Amendments to this regulation also include regulatory safeguards to promote public safety, protect other wildlife, and aid in the enforcement of the regulation. No changes have been made to the amendment as a result of this comment.

**COMMENT #6:** Amanda Good, on behalf of the Humane Society of the United States, expressed opposition based on the following concerns: proposed methods threaten the safety of people, pets, livestock, and non-target wildlife; proposed methods will not reduce coyote populations nor increase deer or other game species; proposed methods will not reduce conflicts with humans, pets, or livestock; removal of coyotes harms sensitive ecosystems; and proposed methods may increase poaching.

**RESPONSE:** Amendments to this regulation include regulatory safeguards to promote public safety, protect other wildlife, and aid in the enforcement of the regulation. The proposed regulatory changes are designed to provide additional methods for hunters to use and are not intended to effect change on the coyote population, nor to directly

impact populations of other species. Given that the proposed amendments only add additional methods by which coyotes can be taken under a restrictive time period, it is not anticipated that the coyote population, which is considered stable based on population indices, will experience any negative impacts because of these changes. Coyote population indices will continue to be monitored annually. No changes have been made to the amendment as a result of this comment.

COMMENT #7: Edward Heisel, Pacific, expressed concern the fiscal note for the proposed amendment underestimated the costs to private and public entities based upon his conclusion that the proposed amendment would negatively impact coyote populations and thereby lead to increasing deer and rodent populations, with corresponding costs such as crop damage, vehicle collisions, and disease.

RESPONSE: As stated above, the department does not believe the statewide coyote population will experience any negative impacts as a result of this amendment, and therefore no changes have been made to the fiscal note 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 10-12.125 is amended.

This rule establishes hunting seasons and is exempted by sections 536.021, RSMo from the requirements for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-12.125 Hunting and Trapping by establishing seasons for hunting.

**3 CSR 10-12.125 Hunting and Trapping**

(1) Hunting, under statewide permits, seasons, methods, and limits, is permitted except as further restricted in this chapter and except for deer and turkey hunting as authorized in the annual *Fall Deer & Turkey Hunting Regulations and Information* booklet published in August and annual *Spring Turkey Hunting Regulations and Information* booklet published in March, which are incorporated in this *Code* by reference. A printed copy of these booklets can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and are also available online at [www.missouriconservation.org](http://www.missouriconservation.org). This rule does not incorporate any subsequent amendments or additions.

(B) Hunting is prohibited on the following areas:

1. Belton (Cleveland Lake);
2. Bethany (Old Bethany City Reservoir);
3. Buchanan County (Gasper Landing);
4. California (Proctor Park Lake);
5. Carthage (Kellogg Lake);
6. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, Twin Lakes);
7. Dexter City Lake;
8. Farmington (Giessing Lake, Hager Lake, Thomas Lake);
9. Fenton (Preslar Lake, Upper Fabick Lake, Westside Park Lake);
10. Fulton (Morningside Lake, Truman Lake, Veterans Park Lake);

11. Hamilton City Lake;
12. Harrisonville (North Lake);
13. Jackson (Rotary Lake);
14. Jackson County (Alex George Lake, Bergan Lake, Bowlin Pond, Fleming Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake);
15. Kearney (Jesse James Park Lake);
16. Kirksville (Spur Pond);
17. Lawson City Lake;
18. Liberty (Capitol Federal® Sports Complex Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8);
19. Mexico (Lakeview Lake, Kiwanis Lake);
20. Mineral Area College (Quarry Pond);
21. Moberly (Rothwell Park Lake, Water Works Lake);
22. Odessa (Lake Venita);
23. Overland (Wild Acres Park Lake);
24. Perry County (Legion Lake 1);
25. Potosi (Roger Bilderback Lake);
26. Raymore (Johnston Lake);
27. Rolla (Schuman Park Lake);
28. St. Ann (Gendron Lake);
29. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake);
30. St. James (Scioto Lake);
31. St. Joseph (Krug Park Lagoon);
32. St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson Park Lake, Spanish Lake, Sunfish Lake);
33. Savannah City Lake;
34. Sedalia (Clover Dell Park Lake);
35. Sedalia Water Department (Spring Fork Lake);
36. Springfield City Utilities (Lake Springfield);
37. Union (Union City Lake);
38. University of Missouri (Thomas S. Baskett Wildlife Research and Education Center);
39. Warrensburg (Lions Lake);
40. Watershed Committee of the Ozarks (Valley Water Mill Lake);
41. Wentzville (Community Club Lake, Heartland Lake); and
42. Windsor (Farrington Park Lake).

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 September 4, 2020, becomes effective **October 1, 2020**.

**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 10-12.140 is amended.

This rule establishes daily and possession limits for 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 10-12.140 Fishing, Daily and Possession Limits by establishing daily and possession limits for taking fish from waters of the state.

**3 CSR 10-12.140 Fishing, Daily and Possession Limits**

(2) The daily limit for black bass is two (2) on the following lakes:

- (A) Arrow Rock State Historic Site (Big Soldier Lake);
- (B) Ballwin (New Ballwin Park Lake, Vlasis Park Lake);
- (C) Belton (Cleveland Lake);
- (D) Blue Springs (Lake Remembrance);
- (E) Butler City Lake;
- (F) Columbia (Stephens Park Lake, Twin Lakes);
- (G) Concordia (Edwin A. Pape Lake);
- (H) Confederate Memorial State Historic Site lakes;
- (I) Fenton (Preslar Lake, Upper Fabick Lake, Westside Park Lake);
- (J) Ferguson (January-Wabash Lake);
- (K) Higginsville (Higginsville City Lake, Upper Higginsville City Lake);
- (L) Jackson County (Alex George Lake, Bergan Lake, Bowlin Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake);
- (M) Jefferson City (McKay Park Lake);
- (N) Jennings (Koeneman Park Lake);
- (O) Kearney (Jesse James Park Lake);
- (P) Keytesville (Maxwell Taylor Park Pond);
- (Q) Kirkwood (Walker Lake);
- (R) Liberty (Capitol Federal® Sports Complex Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8);
- (S) Mexico (Teal Lake);
- (T) Mineral Area College (Quarry Pond);
- (U) Overland (Wild Acres Park Lake);
- (V) Potosi (Roger Bilderback Lake);
- (W) Raymore (Johnston Lake);
- (X) Sedalia Water Department (Spring Fork Lake);
- (Y) St. Ann (Gendron Lake);
- (Z) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake);
- (AA) St. Louis (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, North Lake, South Lake);
- (BB) St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson Park Lake, Spanish Lake, Sunfish Lake, Tilles Park Lake);
- (CC) Union (Union City Lake);
- (DD) Warrensburg (Lions Lake);
- (EE) Watkins Mill State Park (Williams Creek Lake);
- (FF) Wentzville (Community Club Lake, Heartland Lake); and
- (GG) Windsor (Farrington Park Lake).

(7) The daily limit for bluegill is ten (10) on Liberty (Capitol Federal® Sports Complex Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8).

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 September 4, 2020, becomes effective **October 1, 2020.**

**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 10-12.145 is amended.

This rule establishes length limits for 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 10-12.145 Fishing, Length Limits by establishing length limits for fish taken from waters of the state.

**3 CSR 10-12.145 Fishing, Length Limits**

(2) Black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught, except as follows:

(A) Black bass less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught on the following lakes:

1. Arrow Rock State Historic Site (Big Soldier Lake);
2. Belton (Cleveland Lake);
3. Bethany (Old Bethany City Reservoir);
4. Blue Springs (Lake Remembrance);
5. Butler City Lake;
6. Cameron (Century Lake, Eagle Lake, Grindstone Lake, Sunrise Lake);
7. Carthage (Kellogg Lake);
8. Columbia (Stephens Park Lake);
9. Concordia (Edwin A. Pape Lake);
10. Confederate Memorial State Historic Site lakes;
11. Dexter City Lake;
12. East Prairie (K. S. Simpkins Park Pond);
13. Farmington (Hager Lake, Giessing Lake, Thomas Lake);
14. Hamilton City Lake;
15. Harrison County Lake;
16. Higginsville (Higginsville City Lake, Upper Higginsville City Lake);
17. Holden City Lake;
18. Jackson (Litz Park Lake, Rotary Lake);
19. Jackson County (Alex George Lake, Bergan Lake, Bowlin Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake);
20. Jefferson City (McKay Park Lake);
21. Kearney (Jesse James Park Lake);
22. Keytesville (Maxwell Taylor Park Pond);
23. Kirksville (Hazel Creek Lake);
24. Liberty (Capitol Federal® Sports Complex Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8);
25. Marble Hill (Pellegrino Lake);
26. Mark Twain National Forest (Fourche Lake, Huzzah Pond, Loggers Lake, McCormack Lake, Noblett Lake, Roby Lake);
27. Maysville (Willow Brook Lake);
28. Mineral Area College (Quarry Pond);
29. Odessa (Lake Venita);
30. Pershing State Park ponds;
31. Potosi (Roger Bilderback Lake);
32. Raymore (Johnston Lake);
33. Unionville (Lake Mahoney);
34. University of Missouri (McCredie Lake);
35. Warrensburg (Lions Lake);
36. Watkins Mill State Park (Williams Creek Lake); and
37. Windsor (Farrington Park Lake);

(B) Black bass less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught on the following lakes:

1. Ballwin (New Ballwin Park Lake, Vlasis Park Lake);



2. Columbia (Twin Lakes);
3. Fenton (Preslar Lake, Upper Fabick Lake, Westside Park Lake);
4. Ferguson (January-Wabash Lake);
5. Jennings (Koeneman Park Lake);
6. Kirkwood (Walker Lake);
7. Overland (Wild Acres Park Lake);
8. Sedalia Water Department (Spring Fork Lake);
9. St. Ann (Gendron Lake);
10. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake);
11. St. Louis (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, North Lake, South Lake);
12. St. Louis County (Bee Tree Park Lake, Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson Park Lake, Spanish Lake, Sunfish Lake, Tilles Park Lake);
13. Union (Union City Lake); and
14. Wentzville (Community Club Lake, Heartland Lake);

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 September 4, 2020, becomes effective **October 1, 2020**.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 12—Hazardous Waste Fees and Taxes**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Natural Resources under section 260.380 RSMo Supp. 2020, the Department of Natural Resources amends a rule as follows:

**10 CSR 25-12.010 Fees and Taxes is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2020 (45 MoReg 994-998). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 7, 2020, and the public comment period ended August 14, 2020. At the public hearing, the Department of Natural Resources staff explained the proposed amendment and no comments were made.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 35—Children's Division  
Chapter 60—Licensing of Foster Family Homes**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, Children's Division, under sections 207.020, 210.486, 210.506, and 660.017, RSMo 2016, and section 210.487, RSMo Supp. 2020, the division adopts a rule as follows:

**13 CSR 35-60.120 Criminal Background Check Screening due to Coronavirus-Related Closures is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 15, 2020 (45 MoReg 945-946). 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 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 2—Income Maintenance**

**ORDER OF RULEMAKING**

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

**13 CSR 40-2.160 State Hearing Procedures is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2020 (45 MoReg 793-796). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 2—Income Maintenance**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, Family Support Division, under sections 207.020 and 660.017, RSMo 2016, the division rescinds a rule as follows:

**13 CSR 40-2.210 State Emergency Assistance Program is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 15, 2020 (45 MoReg 946). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 108—Child Support Program, Counties under Cooperative Agreement**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, Family Support Division, under sections 454.400 and 660.017, RSMo 2016, the division amends a rule as follows:

**13 CSR 40-108.010 is amended.**

A notice of proposed rulemaking containing the text of the proposed

amendment was published in the *Missouri Register* on July 1, 2020 (45 MoReg 999-1000). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Social Services, Family Support Division (FSD), received three (3) comments on the proposed amendment.

**COMMENT #1:** Aaron Mealy, Assistant, Division of Legal Services commented that the word “dollars” was inadvertently removed from two (2) sentences in subsection (5)(D). The word “dollars” should remain in subsection (5)(D).

**RESPONSE AND EXPLANATION OF CHANGE:** The Family Support Division has amended the final rule to reflect this change.

**COMMENT #2:** Aaron Mealy, Assistant, Division of Legal Services commented that the date of publication for Publication 946, How to Depreciate Property, was not added to subsection (5)(D) in the proposed amendment.

**RESPONSE AND EXPLANATION OF CHANGE:** The Family Support Division has amended the final rule to add the publication date.

**COMMENT #3:** Aaron Mealy, Assistant, Division of Legal Services commented that the address for the incorporation by reference in subsection (5)(D) was not appropriately updated. The address needs to be updated to reflect the current location of the Family Support Division.

**RESPONSE AND EXPLANATION OF CHANGE:** The Family Support Division has amended the final rule to update the address.

### 13 CSR 40-108.010 Reimbursable Expenditures

(5) Additional Criteria or Prerequisites for Claiming Certain Reimbursable Expenses.

(D) Equipment Purchases. Equipment, for the purpose of this rule, is nonexpendable personal property with an initial cost of two thousand five hundred dollars (\$2,500). Reimbursement for equipment shall be available only through straight-line depreciation. The depreciation claimed will be based on the Internal Revenue Service’s Table of Class Lives and Recovery Periods set forth in Publication 946, How to Depreciate Property, dated 2019, which is incorporated by reference and made a part of this rule as published by the Department of Social Services, Child Support Program 615 Howerton Court Jefferson City, MO 65102, at its website at <https://dssruletracker.mo.gov/dss-proposed-rules/welcome.action> on June 1, 2020. This rule does not incorporate any subsequent amendments or additions. To claim depreciation in the purchase of equipment with at least an initial cost of two thousand five hundred dollars (\$2,500) or more, the county must request and receive (in writing) the director’s or his/her designee’s prior approval for federal financial participation in the cost of equipment. Retroactive approval will not be granted. The county will claim depreciation annually after the first full year of use.

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

### ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.153, 208.201, and 660.017, RSMo 2016, and section 208.152, RSMo Supp. 2020, the division amends a rule as follows:

13 CSR 70-15.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2020 (45 MoReg 796-809). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Social Services, MO HealthNet Division (MHD), received five (5) comments on the proposed amendment.

**COMMENT #1:** Christina Jenks, Director of Hospital Policy & Reimbursement, MO HealthNet Division commented that paragraph (5)(A)4. needs to have the fifteen- (15-) day time frame added back in that was previously set to be removed.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final amendment to reflect this change.

**COMMENT #2:** Kim Duggan, Vice President of Medicaid and Federal Reimbursement Allowance (FRA), Missouri Hospital Association commented that subsection (1)(A) of the draft proposed regulation contained the following statement. “As described in paragraph (5)(D)(2) of this rule, as part of each hospital’s fiscal year-end cost settlement determination, a comparison of total MO HealthNet-covered aggregate charges and total MO HealthNet Payments will be made and any hospital whose aggregate MO HealthNet per diem payments exceed aggregate MO HealthNet charges will be subject to a retroactive adjustment.”

The draft proposed regulation that was shared with interested parties contained subsection (1)(A). However, this section was not included in the June 1 *Missouri Register*. As previously shared with the division, we recommend that this sentence be removed because inpatient hospital services no longer are cost settled. Also, the current paragraph (5)(D)2. that is being referenced in this sentence is being removed as part of the proposed amendment.

**RESPONSE:** This subsection of the regulation was not open for comment during the public comment period so MHD will not be able to make this change at this time.

**COMMENT #3:** Kim Duggan, Vice President of Medicaid and FRA, Missouri Hospital Association commented that the proposed subsection (4)(B) does not appear to read correctly as proposed.

We recommend that the word “either” be removed. The current language references “either subsection (4)(A), or (4)(B).” However, “or (4)(B)” is bracketed and italicized, indicating it will be removed. As a result, the word “either” is not necessary.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final amendment to reflect this change.

**COMMENT #4:** Kim Duggan, Vice President of Medicaid and FRA, Missouri Hospital Association commented that the proposed subsection (6)(A) contains a reference that hospitals must have qualified for disproportionate share status under section 13 CSR 70-15.220 in order to be eligible for outlier adjustments for children under the age of six (6). However, the proposed criteria found in 13 CSR 70-15.220 is a change from the current criteria and would preclude some hospitals from being eligible for children’s outlier payments.

To be consistent with the current criteria, we recommend the criteria found in 13 CSR 70-15.015(1)(A) be included under the proposed 13 CSR 70-15.010(6)(A). We also recommend that the reference to 13 CSR 70-15.220 be deleted. This will eliminate confusion that may occur because the criteria were moved to a new section of the regulation.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final amendment to reflect this change.

COMMENT #5: Kim Duggan, Vice President of Medicaid and FRA, Missouri Hospital Association commented that the proposed subparagraph (6)(A)1.B. contains a reference that hospitals “must have qualified for disproportionate share status under section 13 CSR 70-15.220(1)(B).” As mentioned above, the proposed criteria found in 13 CSR 70-15.220(1)(B), that hospitals must meet to be eligible for outlier adjustments for children under the age of six (6), is a change from the current criteria and would preclude some hospitals from being eligible for children’s outlier payments.

To be consistent with the current criteria, we recommend the criteria found in 13 CSR 70-15.015(1)(A) be included under the proposed 13 CSR 70-15.010(6)(A). We also recommend that the reference to 13 CSR 70-15.220(1)(B) be deleted. This will eliminate confusion that may occur because the criteria were moved to a new section of the regulation.

RESPONSE AND EXPLANATION OF CHANGE: The MHD has amended this final amendment to reflect this change. See response to Comment #4 for change in regulation language.

### 13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Methodology

#### (4) Per Diem Rate—New Hospitals.

(A) In the absence of adequate cost data, a new facility’s initial MO HealthNet rate shall be ninety percent (90%) of the average-weighted, statewide per diem rate for the year it became certified to participate in the MO HealthNet program until a prospective rate is determined on the facility’s rate setting cost report as set forth below in paragraph (4)(A)1. The facility’s rate setting cost report shall be the first full fiscal year cost report. If the facility’s first full fiscal year cost report does not include any Medicaid costs, the facility shall continue to receive the initial rate, and the prospective rate will be determined from the facility’s second full fiscal year cost report. If the facility’s second full fiscal year cost report does not include any Medicaid cost, the initial rate shall become the facility’s prospective rate and shall be effective the date the facility was enrolled in the MO HealthNet program. The effective date for facilities whose prospective rate was based on the rate setting cost report shall be the first day of the SFY that the rate setting cost report is the base year cost report for determining the Direct Medicaid Add-On Payment as described in 13 CSR 70-15.015.

1. Prospective Per Diem Reimbursement Rate Computation. Each new hospital shall receive a MO HealthNet prospective per diem rate based on the sum of the following components:

A. Total Allowable Cost, less Graduate Medical Education cost, adjusted by the Trend Indices in subsection (3)(B) from the year subsequent to the rate setting cost report period through the state fiscal year for which the rate is being determined, divided by Medicaid Inpatient Days; plus

B. Graduate Medical Education cost divided by Medicaid Inpatient Days.

2. The per diem rate shall not exceed the average MO HealthNet inpatient charge per day as determined from the rate setting cost report as adjusted by the applicable Trend Indices.

3. The per diem rate shall be adjusted for rate increases granted in accordance with subsection (5)(F) for allowable costs not included in the rate setting cost report.

4. The per diem rate shall be reduced as necessary to avoid any negative Direct Medicaid Payments computed in accordance with 13 CSR 70-15.015.

(B) In addition to the MO HealthNet rate determined by subsection (4)(A), the MO HealthNet per diem rate for a new hospital licensed after February 1, 2007, shall include an adjustment for the hospital’s estimated Direct Medicaid Add-On Payment per patient day, as determined in 13 CSR 70-15.015, until the facility’s prospective rate is set in accordance with subsection (4)(A). The facility’s Direct Medicaid Add-On adjustment will then no longer be included in the per diem rate but shall be calculated as a separate Add-On Payment, as set

forth in 13 CSR 70-15.015.

#### (5) Reporting Requirements.

##### (A) Cost Reports.

1. Each hospital participating in the MO HealthNet program shall submit a cost report in the manner prescribed by the state MO HealthNet agency. The cost report shall be submitted within five (5) calendar months after the close of the reporting period. The period of a cost report is defined in 42 CFR 413.24(f). A single extension, not to exceed thirty (30) days, may be granted upon the request of the hospital and the approval of the MO HealthNet Division when the provider’s operation is significantly affected due to extraordinary circumstances over which the provider had no control such as fire or flood. The request must be in writing and postmarked prior to the first day of the sixth month following the hospital’s fiscal year end.

2. The change of control, ownership, or termination of or by a hospital of participation in the program requires that the hospital submit a cost report for the period ending with the date of change of control, ownership, or termination within five (5) calendar months after the close of the reporting period. No extensions in the submitting of cost reports shall be allowed when a termination of participation has occurred.

A. If a provider notifies, in writing, the director of the Institutional Reimbursement Unit of the division prior to the change of control, ownership, or termination of participation in the MO HealthNet program, the division will withhold all remaining payments from the selling provider until the cost report is filed. Upon receipt of a cost report prepared in accordance with this regulation, any payment that was withheld will be released to the selling provider.

B. If the director of the Institutional Reimbursement Unit does not receive, in writing, notification of a change of control or ownership upon learning of a change of control or ownership, fifty thousand dollars (\$50,000) of the next available MO HealthNet payment, after learning of the change of control or ownership, will be withheld from the provider identified in the current MO HealthNet participation agreement until a cost report is filed. If the MO HealthNet payment is less than fifty thousand dollars (\$50,000), the entire payment will be withheld. Once the cost report prepared in accordance with this regulation is received, the payment will be released to the provider identified in the current MO HealthNet participation agreement.

C. The MO HealthNet Division may, at its discretion, delay the withholding of funds specified in subparagraphs (5)(A)2.A. and B. until the cost report is due based on assurances satisfactory to the division that the cost report will be timely filed. A request jointly submitted by the buying and selling provider may provide adequate assurances. The buying provider must accept responsibility for ensuring timely filing of the cost report and authorize the division to immediately withhold fifty thousand dollars (\$50,000) if the cost report is not timely filed.

3. All cost reports shall be submitted and certified by an officer or administrator of the provider. Failure to file a cost report, within the period prescribed in this subsection, may result in the impositions of sanctions as described in 13 CSR 70-3.030.

4. Amended cost reports or other supplemental. The division will notify hospital by letter when the desk review of its cost report is completed. Since this data may be used in the calculation of per diem rates, direct payments, trended costs, or uninsured add-on payments, the hospital shall review the desk review data and the schedule of key data elements and submit amended or corrected data to the division within fifteen (15) days. Data received after the fifteen- (15-) day deadline will not be considered by the division for per diem rates, direct payments, trended costs, or uninsured payments unless the hospital requests in writing and receives an extension to file additional information prior to the end of the fifteen- (15-) day deadline.

#### (6) Outlier Adjustment for Children Under the Age of Six (6).

(A) Effective for admissions beginning on or after July 1, 1991,

outlier adjustments for medically necessary inpatient services involving exceptionally high cost or exceptionally long lengths of stay for MO HealthNet-eligible children under the age of six (6) will be made to hospitals meeting the criteria under this plan and, for MO HealthNet-eligible infants under the age of one (1), will be made to any other MO HealthNet hospital except for specialty pediatric hospitals.

1. The following criteria must be met to be eligible for outlier adjustments for children one (1) year of age to children under six (6) years of age:

A. If the facility offered nonemergency obstetric services as of December 21, 1987, there must be at least two (2) obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to these services under the Missouri Medicaid plan. In the case of a hospital located in a rural area (area outside of a metropolitan statistical area, as defined by the federal Executive Office of Management and Budget), the term obstetrician includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. This section does not apply to hospitals either with inpatients predominantly under eighteen (18) years of age or which did not offer nonemergency obstetric services as of December 21, 1987;

B. As determined from the fourth prior year desk-reviewed cost report, the facility must have either—

(I) A Medicaid inpatient utilization rate (MIUR) at least one (1) standard deviation above the state’s mean MIUR for all Missouri hospitals. The MIUR will be expressed as the ratio of total Medicaid days (TMD) provided under a state plan divided by the provider’s total number of inpatient days (TNID). The state’s mean MIUR will be expressed as the ratio of the sum of the total number of the Medicaid days for all Missouri hospitals divided by the sum of the total patient days for the same Missouri hospitals. Data for hospitals no longer participating in the program will be excluded;

$$MIUR = \frac{TMD}{TNID}$$

or

(II) A low-income utilization rate (LIUR) in excess of twenty-five percent (25%). The LIUR shall be the sum (expressed as a percentage) of the fractions, calculated as follows:

(a) Total MO HealthNet patient revenues (TMPR) paid to the hospital for patient services under a state plan plus the amount of the cash subsidies (CS) directly received from state and local governments, divided by the total net revenues (TNR) (charges, minus contractual allowances, discounts, and the like) for patient services plus the CS; and

(b) The total amount of the hospital’s charges for patient services attributable to charity care (CC) (care provided to individuals who have no source of payment, third-party, or personal resources) less CS directly received from state and local governments in the same period, divided by the total amount of the hospital’s charges (THC) for patient services. The total patient charges attributed to CC shall not include any contractual allowances and discounts other than for indigent patients not eligible for MO HealthNet under a state plan;

$$LIUR = \frac{TMPR + CS}{TNR + CS} + \frac{CC - CS}{THC}$$

C. As determined from the fourth prior year desk-reviewed cost report, the hospital—

(I) Has an unsponsored care ratio of at least ten percent (10%). The unsponsored care ratio is determined as the sum of bad debts and CC divided by TNR and also meets either of the criteria in subparagraph (6)(A)1.B.; or

(II) Ranks in the top fifteen (15) in the number of Medicaid inpatient days provided by that hospital compared to Medicaid patient days provided by all hospitals, and the hospitals also have a Medicaid

nursery utilization ratio greater than thirty-five percent (35%) as computed by dividing Title XIX nursery and neonatal days by total nursery and neonatal days; or

(III) Operated a neonatal intensive care unit with a ratio of Missouri Medicaid neonatal patient days to Missouri Medicaid total patient days in excess of nine percent (9%) reported or verified by the division from the fourth prior year cost report;

D. As determined from the fourth prior year desk-reviewed cost report—

(I) The acute care hospital has an unsponsored care ratio of at least sixty-five percent (65%) and is licensed for less than fifty (50) inpatient beds; or

(II) The acute care hospital has an unsponsored care ratio of at least sixty-five percent (65%) and is licensed for fifty (50) inpatient beds or more and has an occupancy rate of more than forty percent (40%); or

(III) The hospital is owned or operated by the Board of Curators as defined in Chapter 172, RSMo, or their successors; or

(IV) The hospital is a public hospital operated by the Department of Mental Health primarily for the care and treatment of mental disorders; and

E. As determined from the fourth prior year desk-reviewed cost report, hospitals which annually provide more than five thousand (5,000) Title XIX days of care and whose Title XIX nursery days represent more than fifty percent (50%) of the hospital’s total nursery days.

2. The following criteria must be met for the services to be eligible for outlier review:

A. The patient must be a MO HealthNet-eligible infant under the age of one (1) year, or for hospitals that meet the criteria under paragraph (6)(A)1. a MO HealthNet-eligible child under the age of six (6) years, for all dates of service presented for review;

B. Hospitals requesting outlier review for children one (1) year of age to children under six (6) years of age must have qualified under paragraph (6)(A)1. for the state fiscal year corresponding with the fiscal year end of the cost report referred to in paragraph (6)(A)6.; and

C. One (1) of the following conditions must be satisfied:

(I) The total reimbursable charges for dates of service as described in paragraph (6)(A)4. must be at least one hundred fifty percent (150%) of the sum of total third-party liabilities and MO HealthNet inpatient claim payments for that claim; or

(II) The dates of service must exceed sixty (60) days and less than seventy-five percent (75%) of the total service days was reimbursed by MO HealthNet.

3. Claims for all dates of service eligible for outlier review must—

A. Have been submitted to the MO HealthNet Division fiscal agent or the managed care health plan in their entirety for routine claims processing, and claim payment must have been made before the claims are submitted to the division for outlier review; and

B. Be submitted for outlier review with all documentation as required by the MO HealthNet Division no later than ninety (90) days from the last payment made by the fiscal agent or the managed care health plan through the normal claims processing system for those dates of service.

4. Information for outlier reimbursement processing will be determined from claim charges and MO HealthNet payment data, submitted to the MO HealthNet Division fiscal agent or managed care health plan, by the hospital through normal claim submission. If the claim information is determined to be incomplete as submitted, the hospital may be asked to provide claim data directly to the MO HealthNet Division for outlier review.

5. The claims may be reviewed for—

A. Medical necessity at an inpatient hospital level-of-care;

B. Appropriateness of services provided in connection with the diagnosis;

C. Charges that are not permissible per the MO HealthNet

Division; policies established in the hospital provider manual and hospital bulletins; and

D. If the hospital is asked to provide claim information, the hospital will need to provide an affidavit vouching to the accuracy of final payments by the MO HealthNet Division, managed care health plans, and other third-party payors. The calculation of outlier payments will be based on the standard hospital payment defined in subparagraph (6)(A)7.B.

6. After the review, reimbursable costs for each claim will be determined using the following data from the most recent Medicaid hospital cost report filed by June 1 of each year:

A. Average routine (room and board) costs for the general and special care units for all days of the stay eligible per the outlier review;

B. Ancillary cost-to-charge ratios applied to claim ancillary charges determined eligible for reimbursement per the outlier review; and

C. No cost will be calculated for items such as malpractice insurance premiums, interns and residents, professional services, or return on equity.

7. Each state fiscal year, outlier adjustment payments for each hospital will be made for all claims submitted before March 1 of the preceding state fiscal year which satisfy all conditions in paragraphs (6)(A)1.-5. The payments will be determined for each hospital as follows:

A. Sum all reimbursable costs per paragraph (6)(A)6. for all applicable outlier claims to equal total reimbursable costs;

B. For those claims, subtract third-party payments and MO HealthNet payments, which includes both per diem payments and Direct Medicaid Add-On payments, from total reimburseable costs to equal excess cost; and

C. Multiply excess costs by fifty percent (50%).

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

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.153, 208.201, and 660.017, RSMo 2016, and section 208.152, RSMo Supp. 2020, the division adopts a rule as follows:

13 CSR 70-15.015 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 1, 2020 (45 MoReg 809-816). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Social Services, MO HealthNet Division (MHD), received five (5) comments on the proposed rule.

**COMMENT #1:** Christina Jenks, Director of Hospital Policy & Reimbursement, MO HealthNet Division commented that part (2)(B)2.D.(I) needs to have the type of regression added.

MHD will add the word “quadratic” before the words “regression analysis” in part (2)(B)2.D.(I). This change is being made based on provider engagement.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change.

**COMMENT #2:** Christina Jenks, Director of Hospital Policy & Reimbursement, MO HealthNet Division commented that part

(2)(B)2.D.(II) needs to be removed.

MHD will remove this paragraph as MHD no longer plans to apply a percentage adjustment since MHD is not using the linear regression analysis.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change.

**COMMENT #3:** Christina Jenks, Director of Hospital Policy & Reimbursement, MO HealthNet Division commented that parts (2)(B)2.D.(III) and (2)(B)2.D.(IV) need to be renumbered.

Since MHD is removing part (2)(B)2.D.(II), these two (2) paragraphs need to be renumbered.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change.

**COMMENT #4:** Kim Duggan, Vice President of Medicaid and FRA, Missouri Hospital Association commented that proposed subparagraph (2)(B)2.E. contains a reference to “the trend indices as defined in 13 CSR 70-15.010(3)(B)1.”

We recommend that the reference be changed to 13 CSR 70-15.010(3)(B) because paragraph 1. is being removed.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change.

**COMMENT #5:** Kim Duggan, Vice President of Medicaid and FRA, Missouri Hospital Association commented that proposed paragraph (2)(C)5. contains a reference to “shall have its Direct Medicaid Payments determined in accordance with 13 CSR 70-15.010(3)(B)4.”

We recommend that the reference be changed to 13 CSR 70-15.010(3)(B)2. because paragraph 4. is being changed to paragraph 2.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change.

**13 CSR 70-15.015 Direct Medicaid Payments**

(2) Direct Medicaid Payments.

(B) The MO HealthNet Division will calculate the Direct Medicaid payment as follows:

1. The MO HealthNet share of the inpatient FRA assessment will be calculated by dividing the hospital’s inpatient Medicaid patient days by the total inpatient hospital patient days from the hospital’s base cost report to arrive at the inpatient Medicaid utilization percentage. This percentage is then multiplied by the inpatient FRA assessment for the current SFY to arrive at the increased allowable MO HealthNet costs for the inpatient FRA assessment. The MO HealthNet share of the outpatient FRA assessment will be calculated by dividing the hospital’s outpatient MO HealthNet charges by the total outpatient hospital charges from the base cost report to arrive at the MO HealthNet utilization percentage. This percentage is then multiplied by the outpatient FRA assessment for the current SFY to arrive at the increased allowable MO HealthNet costs for the outpatient FRA assessment.

A. Effective for payments made on or after May 1, 2017, only the Fee-for-Service and Out-of-State components of the MO HealthNet share of both the inpatient and outpatient FRA assessment will be included in the Direct Medicaid add-on payment.

2. The unreimbursed MO HealthNet costs are determined by subtracting the hospital’s per diem rate from its trended per diem costs. The difference is multiplied by the estimated MO HealthNet patient days for the current SFY plus the out-of-state days from the fourth prior year cost report trended to the current SFY. The FFS days are determined from a regression analysis of the hospital’s FFS days from February 1999 through December of the second prior SFY. The managed care days are based on the FFS days determined from the regression analysis, as follows: The FFS days are factored up by the percentage of FFS days to the total of FFS days plus managed care days from the hospital’s fourth prior year cost report. The

difference between the FFS days and the FFS days factored up by the FFS days' percentage are the managed care days.

A. Effective for payments made on or after May 1, 2017, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2017, second prior CY would be 2015) by—

(I) The trend determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY; and

(II) The days estimated to shift from FFS to managed care effective May 1, 2017. The estimated managed care days for populations added to managed care beginning May 1, 2017 will be subtracted from the trended FFS days to yield the estimated MO HealthNet patient days.

B. Effective for payments made on or after July 1, 2018, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2019, second prior CY would be 2017) by—

(I) The trend determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY;

(II) A percentage adjustment shall be applied to the regression due to statewide managed care;

(III) The FFS days are factored up by the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report to yield the estimated MO HealthNet patient days; and

(IV) From the total estimated MO HealthNet patient days, remove the SFY 2019 estimated managed care days to yield the estimated MO HealthNet FFS patient days.

C. Effective for payments made on or after July 1, 2019, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2020, second prior CY would be 2018) by—

(I) The trend determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY;

(II) A percentage adjustment shall be applied to the regression due to statewide managed care;

(III) The FFS days are factored up by one (1) of the following:

(a) For hospitals that are in a managed care extension region or a Psychiatric hospital, the lower of the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report or from the hospital's second prior year cost report to yield the estimated MO HealthNet patient days; or

(b) For hospitals that are not in a managed care extension region or a Psychiatric hospital, the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report to yield the estimated MO HealthNet patient days; and

(IV) The difference between the FFS days and the FFS days factored up by the FFS days' percentage are the managed care days.

D. Effective for payments made on or after July 1, 2020, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2021, second prior CY would be 2019) by—

(I) The trend determined from a quadratic regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY;

(II) The FFS days are factored up by one (1) of the following:

(a) For hospitals that are in a managed care extension region or a Psychiatric hospital, the lower of the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report or from the hospital's third prior year cost report to yield the estimated MO HealthNet patient days; or

(b) For hospitals that are not in a managed care extension region or a Psychiatric hospital, the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report to yield the estimated MO HealthNet patient days; and

(III) The difference between the FFS days and the FFS days factored up by the FFS days' percentage are the managed care days.

E. The trended cost per day is calculated by trending the base year costs per day by the trend indices as defined in 13 CSR 70-15.010(3)(B), using the rate calculation in 13 CSR 70-15.010(3)(A).

F. For hospitals that meet the requirements in paragraphs (1)(A)1., (1)(A)2., and (1)(A)4. of this rule (safety net hospitals), the base year cost report may be from the third prior year, the fourth prior year, or the fifth prior year. For hospitals that meet the requirements in paragraphs (1)(A)1. and (1)(A)3. of this rule (first tier Disproportionate Share Hospitals), the base year cost report may be from the third prior year, or the fourth prior year. The MO HealthNet Division shall exercise its sole discretion as to which report is most representative of costs. For all other hospitals, the base year cost report is the fourth prior year. For any hospital that has both a twelve-(12-) month cost report and a partial year cost report, its base period cost report for that year will be the twelve- (12-) month cost report.

G. The trended cost per day does not include the costs associated with the FRA assessment, the application of minimum utilization, the utilization adjustment, and the poison control costs computed in paragraphs (2)(B)1., 3., 4., and 5.;

3. The minimum utilization costs for capital and medical education is calculated by determining the difference in the hospital's cost per day when applying the minimum utilization, as identified in 13 CSR 70-15.010(5)(C)4., and without applying the minimum utilization. The difference in the cost per day is multiplied by the estimated MO HealthNet patient days for the SFY;

4. The utilization adjustment cost is determined by estimating the number of MO HealthNet inpatient days the hospital will not provide as a result of the managed care health plans limiting inpatient hospital services. These days are multiplied by the hospital's cost per day to determine the total cost associated with these days. This cost is divided by the remaining total patient days from its base period cost report to arrive at the increased cost per day. This increased cost per day is multiplied by the estimated MO HealthNet days for the current SFY to arrive at the MO HealthNet utilization adjustment.

A. Effective July 1, 2011, the utilization adjustment will no longer apply to any hospital other than safety net hospitals as defined in subsection (1)(B), children's hospitals as defined in 13 CSR 70-15.010(2)(Q), and specialty pediatric hospitals as defined in 13 CSR 70-15.010(2)(O). Children's hospitals and specialty pediatric hospitals will continue to receive fifty percent (50%) of the adjustment calculated in accordance with paragraph (2)(B)4. Safety net hospitals will continue to receive one hundred percent (100%) of the adjustment calculated in accordance with paragraph (2)(B)4.;

5. The poison control cost shall reimburse the hospital for the prorated MO HealthNet managed care cost. It will be calculated by multiplying the estimated MO HealthNet share of the poison control costs by the percentage of managed care participants to total MO HealthNet participants; and

6. Effective July 1, 2006, the costs for including out-of-state Medicaid days is calculated by subtracting the hospital's per diem rate from its trended per diem cost and multiplying this difference by the out-of-state Medicaid days as determined from the regression analysis performed using the out-of-state days from the fourth, fifth, and sixth prior year cost reports.

(C) For new hospitals that do not have a base cost report, Direct

Medicaid Payments shall be estimated as follows:

1. Hospitals receiving Direct Medicaid Payments shall be divided into quartiles based on total beds;

2. Direct Medicaid Payments shall be individually summed by quartile and then divided by the total beds in the quartile to yield an average Direct Medicaid Payment per bed;

3. The number of beds for the new hospital without the base cost report shall be multiplied by the average Direct Medicaid Payment per bed to determine the hospital's estimated Direct Medicaid Payment for the current state fiscal year;

4. For a new hospital licensed after February 1, 2007, estimated total Direct Medicaid Payments for the current state fiscal year shall be divided by the estimated MO HealthNet patient days for the new hospital's quartile to obtain the estimated Direct Medicaid adjustment per patient day. This adjustment per day shall be added to the new hospital's MO HealthNet rate as determined in 13 CSR 70-15.010(4), so that the hospital's Direct Medicaid Payment per day is included in its per diem rate, rather than as a separate Add-On Payment. When the hospital's per diem rate is determined from its first full year cost report in accordance with 13 CSR 70-15.010(1)-(3), the facility's Direct Medicaid Payment will be calculated in accordance with subsection (2)(B) and reimbursed as an Add-On Payment rather than as part of the per diem rate. If the hospital is defined as a critical access hospital, its MO HealthNet per diem rate and Direct Medicaid Payment will be determined in accordance with 13 CSR 70-15.010(5)(F); and

5. A facility previously enrolled for participation in the MO HealthNet Program, which either voluntarily or involuntarily terminates its participation in the MO HealthNet Program and which reenters the MO HealthNet Program, shall have its Direct Medicaid Payments determined in accordance with 13 CSR 70-15.010(3)(B)2.

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

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.201, 208.453, 208.455, and 660.017, RSMo 2016, the division amends a rule as follows:

13 CSR 70-15.110 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2020 (45 MoReg 817-825). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Social Services, MO HealthNet Division (MHD), received six (6) comments on the proposed amendment.

**COMMENT #1:** Christina Jenks, Director of Hospital Policy & Reimbursement, MO HealthNet Division commented that subparagraph (1)(A)13.G. needs to clarify what publication the trend indices come from.

MHD would like to add "The trend indices, if greater than 0%, will be determined based on the Health Care Costs index as published in Healthcare Cost Review by Institute of Health Systems (IHS), or equivalent publication, regardless of any changes in the name of the publication or publisher, for each State Fiscal Year (SFY)." as the first sentence of subparagraph (1)(A)13.G. This language is similar to what is used in 13 CSR 70-15.010 regarding the cost trend.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has

amended this final rule to reflect this change.

**COMMENT #2:** Christina Jenks, Director of Hospital Policy & Reimbursement, MO HealthNet Division commented that subparagraph (1)(A)13.G. lists prior year trend indices that can be removed.

MHD would like to remove (I)-(IX) since these are for prior year trend indices and no longer need to be stated in the current regulation. The remaining indices will need to be renumbered.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change.

**COMMENT #3:** Christina Jenks, Director of Hospital Policy & Reimbursement, MO HealthNet Division commented that paragraph (1)(B)2. needs to be updated to reflect the correct prior year base cost report.

MHD would like to change "fourth" to "third" prior year base cost report since the third prior year is the base cost report for assessment purposes.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change.

**COMMENT #4:** Christina Jenks, Director of Hospital Policy & Reimbursement, MO HealthNet Division commented that subsection (1)(C) needs to be clarified that the provider has fifteen (15) days to confirm or submit corrected data.

MHD would like the last sentence in subsection (1)(C) to read "Each hospital required to pay the FRA shall review the confirmation schedule confirm the information is correct or provide correct information within fifteen (15) days of receiving the confirmation schedule. If the hospital fails to submit the corrected data within the fifteen- (15-) day time period, the hospital shall be barred from submitting corrected data later to have its FRA assessment or the add-on payments from 13 CSR 70-15.010, 13 CSR 70-15.015, and 13 CSR 70-15.220 adjusted." This sentence is currently in paragraph (1)(D)2.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change.

**COMMENT #5:** Kim Duggan, Vice President of Medicaid and FRA, Missouri Hospital Association commented that the proposed section (6) indicates the FRA assessment shall be determined at a rate no greater than five and ninety-five hundredths percent (5.95%) beginning July 1, 2020.

The proposed amendment is inconsistent with the statutory requirement in section 208.455, RSMo, requiring the agency to file a rule that sets forth a formula for determining each hospital's federal reimbursement allowance. The proposed amendment provides no such formula, but rather gives the agency discretion to set any rate up to five and ninety-five hundredths percent (5.95%) without justifying that rate with a formula. The statute does not allow such action.

We understand the state had not yet collected the data necessary to determine the assessment rate for SFY 2021 at the time it filed the proposed amendment. In addition, the amount of the unspent disproportionate share hospital allotment for SFYs 2011 through 2014, which were subject to the outcome of the DSH litigation, had not yet been determined. After collecting the necessary data to determine the projected payments for SFY 2021 and finalizing the unspent DSH allotment amount, MHD and the Missouri Hospital Association jointly determined an assessment rate of five and seventy-five hundredths percent (5.75%) is sufficient to fund these projected payments. Therefore, we recommend that section (6) be amended to reflect an assessment rate of five and seventy-five hundredths percent (5.75%), beginning July 1, 2021.

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change.

**COMMENT #6:** Kim Duggan, Vice President of Medicaid and FRA, Missouri Hospital Association commented that proposed subparagraph (1)(A)13.G. lists the trend indices applied to the inpatient

and outpatient adjusted net revenue.

It appears the Roman numerals assigned to SFY 2020 and 2021 are incorrect.

In addition, the proposed language for SFY 2021 should be replaced with the following trend indices, reflecting our conversations about the expected effects of COVID-19 on inpatient and outpatient revenues in SFY 2021:

(a) Inpatient Adjusted Net Revenues – 3.2%

(b) Outpatient Adjusted Net Revenues – 0%

**RESPONSE AND EXPLANATION OF CHANGE:** The MHD has amended this final rule to reflect this change. See the response to comment #2 that incorporates these changes.

### 13 CSR 70-15.110 Federal Reimbursement Allowance (FRA)

(1) Federal Reimbursement Allowance (FRA). FRA shall be assessed as described in this section.

#### (A) Definitions.

1. Bad debts—Amounts considered to be uncollectible from accounts and notes receivable that were created or acquired in providing services. Allowable bad debts include the costs of caring for patients who have insurance, but their insurance does not cover the particular service procedures or treatment rendered.

2. Base cost report—Desk-reviewed Medicare/Medicaid cost report. The Medicare/Medicaid Cost Report version 2552-96 (CMS 2552-96) shall be used for fiscal years ending on or after September 30, 1996. The Medicare/Medicaid Cost Report version 2552-10 (CMS 2552-10) shall be used for fiscal years beginning on and after May 1, 2010. When a hospital has more than one (1) cost report with periods ending in the base year, the cost report covering a full twelve- (12-) month period will be used. If none of the cost reports covers a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve- (12-) month period, the data shall be adjusted, based on the number of months reflected in the base cost report, to a twelve- (12-) month period.

3. Charity care—Those charges written off by a hospital based on the hospital's policy to provide health care services free of charge or at a reduced charge because of the indigence or medical indigence of the patient.

4. Contractual allowances—Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements. The Federal Reimbursement Allowance (FRA) is a cost to the hospital, regardless of how the FRA is remitted to the MO HealthNet Division, and shall not be included in contractual allowances for determining revenues. Any redistributions of MO HealthNet payments by private entities acting at the request of participating health care providers shall not be included in contractual allowances or determining revenues or cost of patient care.

5. Department—Department of Social Services.

6. Director—Director of the Department of Social Services.

7. Division—MO HealthNet Division, Department of Social Services.

8. Engaging in the business of providing inpatient health care—Accepting payment for inpatient services rendered.

9. Federal Reimbursement Allowance (FRA)—The fee assessed to hospitals for the privilege of engaging in the business of providing inpatient health care in Missouri. The FRA is an allowable cost to the hospital.

10. Fiscal period—Twelve- (12-) month reporting period determined by each hospital.

11. Gross hospital service charges—Total charges made by the hospital for inpatient and outpatient hospital services that are covered under 13 CSR 70-15.010.

12. Hospital—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not fewer than twenty-four (24) hours in any week of three (3) or more nonrelated individuals suffering from illness, disease, injury, defor-

mity, or other abnormal physical conditions; or a place devoted primarily to provide, for not fewer than twenty-four (24) hours in any week, medical or nursing care for three (3) or more nonrelated individuals. The term hospital does not include convalescent, nursing, shelter, or boarding homes as defined in Chapter 198, RSMo.

13. Hospital revenues subject to FRA assessment effective July 1, 2008—Each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues subject to the FRA assessment will be determined as follows:

A. Obtain "Gross Total Charges" from Worksheet G-2, Line 25, Column 3 from CMS 2552-96, or Worksheet G-2, Line 28, Column 3 from CMS 2552-10, of the third prior year cost report (i.e., FRA fiscal year cost report) for the hospital. Charges shall exclude revenues for physician services. Charges related to activities subject to the Missouri taxes assessed for outpatient retail pharmacies and nursing facility services shall also be excluded. "Gross Total Charges" will be reduced by the following:

(I) "Nursing Facility Charges" from Worksheet C, Part I, Line 35, Column 6 from CMS 2552-96, or Worksheet C, Part I, Line 45, Column 6 from CMS 2552-10;

(II) "Swing Bed Nursing Facility Charges" from Worksheet G-2, Line 5, Column 1 from CMS 2552-96, or Worksheet G-2, Line 6, Column 1 from CMS 2552-10;

(III) "Nursing Facility Ancillary Charges" as determined from the Department of Social Services, MO HealthNet Division, nursing home cost report. (Note: To the extent that the gross hospital charges, as specified in subparagraph (1)(A)13.A. above, include long-term care charges, the charges to be excluded through this step shall include all long-term care ancillary charges including skilled nursing facility, nursing facility, and other long-term care providers based at the hospital that are subject to the state's provider tax on nursing facility services.);

(IV) "Distinct Part Ambulatory Surgical Center Charges" from Worksheet G-2, Line 22, Column 2 from CMS 2552-96, or Worksheet G-2, Line 25, Column 2 from CMS 2552-10;

(V) "Ambulance Charges" from Worksheet C, Part I, Line 65, Column 7 from CMS 2552-96, or Worksheet C, Part I, Line 95, Column 7 from CMS 2552-10;

(VI) "Home Health Charges" from Worksheet G-2, Line 19, Column 2 from CMS 2552-96, or Worksheet G-2, Line 22, Column 2 from CMS 2552-10;

(VII) "Total Rural Health Clinic Charges" from Worksheet C, Part I, Column 7, Lines 63.50–63.59 from CMS 2552-96, or Worksheet C, Part I, Column 7, Line 88 and subsets from CMS 2552-10; and

(VIII) "Other Non-Hospital Component Charges" from Worksheet G-2, Lines 6, 8, 21, 21.02, 23, and 24 from CMS 2552-96, or Worksheet G-2, Lines 5, 7, 9, 21, 24, 26, and 27 from CMS 2552-10;

B. Obtain "Net Revenue" from Worksheet G-3, Line 3, Column 1. The state will ensure this amount is net of bad debts and other uncollectible charges by survey methodology;

C. "Adjusted Gross Total Charges" (the result of the computations in subparagraph (1)(A)13.A.) will then be further adjusted by a hospital-specific collection-to-charge ratio determined as follows:

(I) Divide "Net Revenue" by "Gross Total Charges"; and

(II) "Adjusted Gross Total Charges" will be multiplied by the result of part (1)(A)13.C.(I) to yield "Adjusted Net Revenue";

D. Obtain "Gross Inpatient Charges" from Worksheet G-2, Line 25, Column 1 from CMS 2552-96, or Worksheet G-2, Line 28, Column 1 from CMS 2552-10, of the most recent cost report that is available for a hospital;

E. Obtain "Gross Outpatient Charges" from Worksheet G-2, Line 25, Column 2 from CMS 2552-96, or Worksheet G-2, Line 28, Column 2 from CMS 2552-10, of the most recent cost report that is available for a hospital;

F. Total "Adjusted Net Revenue" will be allocated between "Net Inpatient Revenue" and "Net Outpatient Revenue" as follows:



(I) "Gross Inpatient Charges" will be divided by "Gross Total Charges";

(II) "Adjusted Net Revenue" will then be multiplied by the result to yield "Net Inpatient Revenue"; and

(III) The remainder will be allocated to "Net Outpatient Revenue"; and

G. The trend indices, if greater than 0%, will be determined based on the Health Care Costs index as published in *Healthcare Cost Review* by Institute of Health Systems (IHS), or equivalent publication, regardless of any changes in the name of the publication or publisher, for each State Fiscal Year (SFY). The trend indices listed below will be applied to the apportioned inpatient adjusted net revenue and outpatient adjusted net revenue in order to inflate or trend forward the adjusted net revenues from the FRA fiscal year cost report to the current state fiscal year to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

(I) SFY 2016 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—3.90%

(II) SFY 2017 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—4.10%

(III) SFY 2018 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—0%

(IV) SFY 2019 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—0%

(V) SFY 2020 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—2.9%

(VI) SFY 2021 =

(a) Inpatient Adjusted Net Revenues—3.2%

(b) Outpatient Adjusted Net Revenues—0%

(B) Each hospital engaging in the business of providing inpatient health care in Missouri shall pay an FRA. The FRA shall be calculated by the Department of Social Services.

1. The FRA shall be as described beginning with section (2) and going forward.

2. If a hospital does not have a third prior year base cost report, inpatient and outpatient adjusted net revenues shall be estimated as follows:

A. Hospitals required to pay the FRA, except safety net hospitals, shall be divided in quartiles based on total beds;

B. The inpatient adjusted net revenue shall be summed for each quartile and divided by the total beds in the quartile to yield an average inpatient adjusted net revenue per bed. The number of beds for the hospital without the base cost report shall be multiplied by the average inpatient adjusted net revenue per bed to determine the estimated inpatient adjusted net revenue; and

C. The outpatient adjusted net revenue shall be summed for each quartile and divided by the number of facilities in the quartile to yield an average outpatient adjusted net revenue per facility which will be the estimated outpatient adjusted net revenue for the hospital without the base cost report.

3. Beginning January 1, 2015, if a hospital does not have a third prior year cost report on which to determine the hospital revenues subject to FRA assessment as set forth in paragraph (1)(A)13., inpatient and outpatient adjusted net revenues shall be based upon the projections included with its Certificate of Need (CON) application on the "Service-Specific Revenues and Expenses" form (CON projections) required in a full CON review as described in 19 CSR 60-50.300. If the hospital did not go through a full CON review, it must submit a completed "Service-Specific Revenues and Expenses" form that has been verified by an independent auditor.

A. The hospital must provide the division with the breakdown of the inpatient and outpatient revenues that tie to the CON projections.

B. The CON projections and the breakdown of the inpatient and outpatient revenues are subject to review and validation by the division.

C. If the facility does not provide the CON projections, the breakdown of the inpatient and outpatient revenues, or any other additional information requested by the division within thirty (30) days of the division's request, the inpatient and outpatient adjusted net revenues shall be based upon the quartile method set forth in paragraph (1)(B)2.

D. Direct Medicaid and Uninsured Add-On Payments shall be included in the estimated inpatient and outpatient adjusted net revenues.

E. Once the facility has a third prior year cost report, the assessment shall be based on the actual inpatient and outpatient adjusted net revenues from such cost report.

4. The FRA assessment for hospitals that merge operation under one (1) Medicare and MO HealthNet provider number shall be determined as follows:

A. The previously determined FRA assessment for each hospital shall be combined under the active MO HealthNet provider number for the remainder of the state fiscal year after the division receives official notification of the merger; and

B. The FRA assessment for subsequent fiscal years shall be based on the combined data for both facilities.

5. A hospital which either voluntarily or involuntarily terminates its license and which becomes relicensed will be assessed the same inpatient and outpatient assessment as the previous hospital owner/operator if the hospital becomes relicensed during the same state fiscal year. If the hospital does not become relicensed during the same state fiscal year, the inpatient and outpatient assessment will be determined based on the applicable base year data (i.e., third prior year). If the hospital does not have the applicable base year data, the inpatient and outpatient assessment will be based on the most recent cost report data available and will include annual trend factor adjustments from the year subsequent to the cost report period through the state fiscal year for which the assessments are being determined.

(C) The division shall prepare a confirmation schedule of the information from each hospital's third prior year cost report and provide each hospital with this schedule. Each hospital required to pay the FRA shall review the confirmation schedule confirm the information is correct or provide correct information within fifteen (15) days of receiving the confirmation schedule. If the hospital fails to submit the corrected data within the fifteen- (15-) day time period, the hospital shall be barred from submitting corrected data later to have its FRA assessment or the add-on payments from 13 CSR 70-15.010, 13 CSR 70-15.015, and 13 CSR 70-15.220 adjusted.

1. The FRA will be offset against any Missouri Medicaid payment due the hospital. The FRA Assessments shall be allocated and deducted over the applicable period.

2. A letter will be sent to the hospital indicating the FRA balance due after offset, if any, at the end of each state fiscal quarter. The FRA balance due shall be remitted by the hospital to the MO HealthNet Division as stated in the letter.

(D) In accordance with sections 621.055 and 208.156, RSMo, hospitals may seek a hearing before the Administrative Hearing Commission from a final decision of the director of the department or division.

(6) Beginning July 1, 2020, the FRA assessment shall be determined at a rate of five and seventy-five hundredths percent (5.75%) of each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues as set forth in paragraph (1)(A)13. The FRA assessment rate will be applied individually to the hospital's inpatient adjusted net revenues and outpatient adjusted net revenues. The hospital's total FRA assessment is the sum of the assessment determined from its inpatient adjusted net revenue plus the assessment determined for its outpatient adjusted net revenue.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 45—Hearing Aid Program**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.153, 208.201, and 660.017, RSMo 2016, and section 208.152, RSMo Supp. 2020, the division amends a rule as follows:

**13 CSR 70-45.010 Hearing Aid Program is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2020 (45 MoReg 946-947). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 95—Private Duty Nursing Care Under the  
Healthy Children and Youth Program**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, MO HealthNet Division, under sections 208.153, 208.201, and 660.017, RSMo 2016, and section 208.152, RSMo Supp. 2020, the division amends a rule as follows:

**13 CSR 70-95.010 is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2020 (45 MoReg 826-829). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Social Services, MO HealthNet Division (MHD) received three (3) comments on the proposed amendment.

COMMENT #1: Glenda Kremer, Assistant Deputy Division Director, MO HealthNet Division, commented that 42 CFR 440.80 indicates a registered nurse or a licensed practical nurse should provide private duty nursing services. Currently, the proposed amendment references a graduate registered nurse or graduate licensed practical nurse provide private duty nursing services. Glenda also recommends that the proposed amendment be revised to be consistent with the *Code of Federal Regulations* found at 42 CFR 440.80 which indicates private duty nursing services be provided under the direction of a beneficiary's physician.

RESPONSE AND EXPLANATION OF CHANGE: The MHD will make changes to remove references to graduate registered nurse and graduate licensed practical nurse to be consistent with 42 CFR 440.80. In addition, language will be revised to indicate services must be provided under the direction of the participant's physician to be consistent with 42 CFR 440.80.

COMMENT #2: Glenda Kremer, Assistant Deputy Division Director, MO HealthNet Division, commented that the reference cited in paragraph (8)(A)7. regarding the Licensed Practical Nurse (LPN) competency demonstration should indicate subsection (6)(B)

as opposed to subsection (6)(C).

RESPONSE AND EXPLANATION OF CHANGE: The reference cited in paragraph (8)(A)7. has been corrected to indicate subsection (6)(B).

COMMENT #3: Paul Winter, President, Missouri Academy of Physician Assistants (MOAPA) commented that MOAPA fully supports the addition of physician assistants into the proposed amendment, recognizing their role in ordering this vital service.

RESPONSE AND EXPLANATION OF CHANGE: The MHD appreciates the comment; however, revision to the language is required as a result of guidance from Centers for Medicare and Medicaid Services regarding wording in the federal regulation for Private Duty Nursing found at 42 CFR 440.80 referencing provision of services under the direction of the beneficiary's physician.

**13 CSR 70-95.010 Private Duty Nursing**

(1) Service Definition. Private duty nursing is the provision of individual and continuous care (in contrast to part-time or intermittent care) under the direction of the participant's, physician, by licensed nurses acting within the scope of the Missouri Nurse Practice Act. Services within the MO HealthNet private duty nursing program include:

- (A) Shift care by a registered nurse (RN); and
- (B) Shift care by a licensed practical nurse (LPN).

(5) Qualification Requirements for Private Duty Nursing Direct Care Staff and Supervisors.

(A) For nursing staff, the provider agency shall show evidence in the personnel record that the employee's licensure status with the Missouri Board of Nursing is current.

(C) The provider will be responsible for assuring and documenting that the nurse's health permits performance of the required activities and does not pose a health hazard. Service delivery shall be prohibited when the employee has a communicable condition.

(6) Requirements for Training for Private Duty Staff.

(A) All direct care staff (LPNs and RNs) must have at least four (4) hours of orientation training prior to service provision. Orientation training should include general information about the MO HealthNet Private Duty Nursing Program, the HCY program, relationship of the provider agency with the MO HealthNet Division and the Bureau of Special Health Care Needs, the prior authorization process, child abuse/neglect indicators and reporting, participant rights, participant grievance procedures, internal agency policy, and a review of universal precaution procedures as defined by the Center for Disease Control.

(B) Prior to delivering services, LPNs must demonstrate competency in each task required by the plan of care. The competency demonstration must be conducted by an RN and must be documented in the LPN's personnel file.

(C) All direct care staff must have a certificate in either cardiopulmonary resuscitation (CPR) or basic certified life-support (BCL).

(7) Requirements for Supervision of Private Duty Nursing Staff.

(A) Each agency shall employ an RN, with three (3) years' nursing (RN and/or LPN) experience, to act as supervisor to all other nursing staff. One (1) year of experience must either be in supervisory position or in the field of pediatric nursing. The RN supervisor will be responsible for case conferences with staff nurses and documenting the conferences, assuring the competency of staff, training and orientation, and evaluation of direct care staff. An LPN with three (3) years' experience may act as the assistant supervisor under the RN supervisor. One (1) year of experience must be in high acuity pediatric nursing care in a hospital, home care agency, or residential setting. The assistant nursing supervisor may be responsible for case conferences with staff nurses, documenting the conferences, developing plan

of care after the initial plan of care has been established by an RN, orientation, training, and evaluation of direct care staff and other duties delegated by the Nursing Supervisor.

(B) All nursing staff providing direct care shall have an annual performance evaluation completed by a licensed nurse supervisor, maintained in the personnel record.

(C) Frequency of Supervisory Visits.

1. Participants of private duty nursing care shall have a personal visit with assessment by a licensed nurse supervisor at least once every sixty (60) days if the participant is authorized for LPN service. Supervisory visits by a nurse will not be separately reimbursed.

2. Patients who have received RN shift care through the Private Duty Nurse Program or intermittent visits by an RN under the home health program (if those services were provided by an agency affiliated with the private duty provider) are not required to have a separate supervisory visit.

3. Supervisory visits, or explanation of why there are no separate supervisory visits for the month (that is, RN shifts were delivered), are to be documented in the participant record.

(8) Requirements for the Contents of Medical Records. Appropriate medical records for each MO HealthNet participant served must be maintained at the private duty nursing agency. Records shall be kept confidential and access shall be limited to private duty nursing staff and representatives of the Departments of Social Services and Health and Senior Services.

(A) Medical records shall contain the following:

1. Identifying information about the participant, such as name, birthdate, MO HealthNet participant identification number, caretaker, and emergency contact person;

2. All forms or correspondence to and from the Bureau of Special Health Care Needs regarding the services which have been prior authorized;

3. Signed orders, under the direction of the participant's physician, prior to service delivery which must be updated each time the prior authorization is due for approval by the Bureau of Special Health Care Needs;

4. Consent from the child's legal custodian for treatment prior to service delivery;

5. The plan of care, documenting the amount, duration, and scope of the service. The level of care indicated in the plan of care (RN or LPN) must be based on acceptable standards of nursing practice. Reimbursement is based on the prior authorization approved by the Bureau of Special Health Care Needs, with that prior authorization based upon the plan of care, specifying the number of units and the skill level of the service, for periods of up to six (6) months;

6. Daily documentation of all services provided and any supervisory visits;

7. Documentation of the LPN's competency demonstration before an RN when the plan of care includes the services of an LPN as required in subsection (6)(B); and

8. Documentation that a copy of the participant's Bill of Rights was given to the participant, parent, or guardian.

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 5—Retirement, Options and Benefits**

**ORDER OF RULEMAKING**

By the authority vested in the board of trustees under section 169.020, RSMo Supp. 2020, the board of trustees hereby amends a rule of The Public School Retirement System of Missouri as follows:

**16 CSR 10-5.020 Disability Retirement is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2020 (45 MoReg 1000-1002). 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 COMMENT: No comments were received.

**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School Retirement System of Missouri**  
**Chapter 6—The Public Education Employee Retirement System of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the board of trustees under section 169.020, RSMo Supp. 2020, the board of trustees hereby amends a rule of The Public School Retirement System of Missouri as follows:

**16 CSR 10-6.070 Disability Retirement is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2020 (45 MoReg 1002-1004). 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 COMMENT: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 10—Office of the Director**  
**Chapter 15—Abortions**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under section 192.006, RSMo 2016 and House Bill 2010, 100th General Assembly, Second Regular Session, the department amends a rule as follows:

**19 CSR 10-15.060 Prohibition on Expenditure of Funds is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2020 (45 MoReg 1004-1005). 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 received no comments.