

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 10—Food Safety and Meat Inspection

PROPOSED AMENDMENT

2 CSR 30-10.010 Inspection of Meat and Poultry. The director is amending section (2).

PURPOSE: This amendment ensures that the current rule language clearly includes the most recent publication of Part 300 to end of Title 9, the Code of Federal Regulations for the Missouri Meat and Poultry Inspection Program to be in compliance with federal regulations and maintain "equal to" status as determined by the United States Department of Agriculture/Food Safety and Inspection Service.

(2) The standards used to inspect Missouri meat and poultry slaughter and processing shall be those shown in Part 300 to end of Title 9, the *Code of Federal Regulations* (January 20/20/21), herein incorpo-

rated by reference and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, DC, 20402-0001, phone: toll-free (866) 512-1800, DC area (202) 512-1800, website: <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: section 265.020, RSMo 2016. Original rule filed Sept. 14, 2000, effective March 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 28, 2021.

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

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

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

Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 4—Wildlife Code: General Provisions

PROPOSED AMENDMENT

3 CSR 10-4.111 Endangered Species. The commission proposes to amend subsection (3)(B) of this rule.

PURPOSE: The commission is proposing to remove the peregrine falcon from the state endangered-species list.

(3) For the purpose of this rule, endangered species of wildlife and plants shall include the following native species designated as endangered in Missouri:

(B) Birds: northern harrier, interior least tern, Swainson's warbler, snowy egret, king rail, Bachman's sparrow, *[peregrine falcon,]* American bittern, greater prairie-chicken.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section [252.240] 252.040, RSMo 2016. Original rule filed Aug. 15, 1973, effective Dec. 31, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 22, 2021.

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 section (2) of this rule.

PURPOSE: This amendment allows heads from deer harvested in the CWD Management Zone to be delivered to any department disease surveillance sampling station or department-approved disease surveillance sampling station within forty-eight (48) hours of exit from the county of harvest except during opening weekend of the November portion of firearms deer season when heads must be taken to a designated disease surveillance sampling station as required by 3 CSR 10-4.200(3).

(2) Any cervid taken from the wild in Chronic Wasting Disease Management Zone counties (see 3 CSR 10-4.200(1)) shall be reported through the Telecheck Harvest Reporting System as required by 3 CSR 10-7.431 prior to transporting the carcass (or parts thereof) outside the county of harvest. Carcasses (or parts thereof) from all cervids taken in Chronic Wasting Disease Management Zone counties that are transported outside the county of harvest shall be delivered to a licensed meat processor or taxidermist within forty-eight (48) hours of exit from the county of harvest, except—

(G) Upper canine teeth; *[and]*

(H) Finished taxidermy products~~./~~; and

(I) Heads may be delivered to any department disease surveillance sampling station or department-approved disease surveillance sampling station within forty-eight (48) hours of exit from the county of harvest except as required by 3 CSR 10-4.200(3).

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 Jan. 22, 2021.

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 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.550 Other Fish. The commission proposes to amend section (1) and subsection (2)(H) of this rule.

PURPOSE: The proposed amendment reestablishes the seasons, methods, and limits for taking common carp and grass carp and their use as live bait.

(1) Daily Limit: The daily limit for fish, other than those species listed as endangered in 3 CSR 10-4.111, alligator gar, or defined as game fish, is fifty (50) in the aggregate, if taken by pole and line, trotline, throwline, limb line, bank line, or jug line. The daily limit if taken by gig, atlatl, bow, crossbow, grabbing, snaring, snagging, or underwater spearfishing is twenty (20), in the aggregate. Invasive fish, **common carp, grass carp,** and goldfish may be taken and possessed in any number. Invasive fish may not be transported from waters of the state where taken unconfined or in water.

(B) In the Mississippi River, the daily and possession limit for fish included in this rule, except invasive fish, **common carp, grass carp,** and goldfish is one hundred (100) in the aggregate.

(2) Methods and Seasons.

(H) Invasive fish, **common carp, and grass carp** 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 Jan. 22, 2021.

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 6—Wildlife Code: Sport Fishing: Seasons,
Methods, Limits**

PROPOSED AMENDMENT

3 CSR 10-6.605 Live Bait. The commission proposes to amend section (4) of this rule.

PURPOSE: The proposed amendment reestablishes the seasons, methods, and limits for taking common carp and grass carp as live bait.

(4) Length Limits: All bluegill, green sunfish, and bullheads more than five inches (5") in total length and other fish more than twelve inches (12") in total length must be returned to the water unharmed immediately after being caught by the methods prescribed in this rule, except there are no length limits for invasive fish, **common carp, grass carp,** gizzard shad, and goldfish.

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 Jan. 22, 2021.

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 10-7.439 Deer: Chronic Wasting Disease Management Program; Permit Availability, Methods, Limits. The commission proposes to amend subsection (1)(A) of this rule.

PURPOSE: This amendment changes the required size of properties for landowners to enroll in the Chronic Wasting Disease Management Program from 20 acres to 5 acres.

(1) Landowners with property located within a Chronic Wasting Disease (CWD) Management Zone as defined in 3 CSR 10-4.200 may enroll property in the department-sponsored Chronic Wasting Disease Management Program to obtain no-cost Chronic Wasting Disease Management Permits in accordance with the following:

(A) For the purposes of this rule a landowner shall include any person owning at least *[twenty (20)] five (5)* contiguous acres within two (2) miles of a confirmed Chronic Wasting Disease-positive.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 26, 2019, effective Feb. 29, 2020. Amended: Filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards**

PROPOSED AMENDMENT

3 CSR 10-9.105 General Provisions. The commission proposes to add a new section (6), renumber subsequent sections, and amend the Approved Confined Wildlife Species List in the new section (7) of this rule.

PURPOSE: The amendments to this rule establish the species of wildlife that may be held under a Class III Wildlife Breeder Permit and Wildlife Exhibitors Permit, removes wolf-hybrids from the approved species list for Class II wildlife breeders, and modifies the approved species list for Class II wildlife breeders to include only those black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves legally obtained under a valid Class II Wildlife Breeder Permit prior to August 30, 2021. The amendments also modify the list of approved species for a Class I Wildlife Breeder Permit, corrects the scientific names of certain species, and adds language to the General Provisions of this chapter to specify that confined wildlife and holding facilities are subject to inspection by a conservation agent at any reasonable time. Proposed additions to this rule also establish general provisions for the chapter, to be consistent with the format of other chapters.

(6) Confined wildlife held within the provisions of this chapter, and any facilities used to hold such wildlife are subject to inspection by a conservation agent at any reasonable time. Refusal to allow access for an inspection shall constitute sufficient cause for suspension or revocation of permit privileges.

[(6)](7) Confined wildlife held under permit within the provision of this chapter shall include only those species listed on the following Approved Confined Wildlife Species List[:].

Approved Confined Wildlife Species List

<i>[Species Code No.]</i> Permittee Type/Classification	Common Name	Scientific Name
Class I Wildlife Breeders		
Game Birds		
	Ducks, Mallard	<i>Anas platyrhynchos</i>
	Grouse, Blue	<i>Dendragapus obscurus</i>
	Grouse, Greater Sage-	<i>Centrocercus urophasianus</i>
	Grouse, Gunnison Sage-	<i>Centrocercus minimus</i>
	Grouse, Ruffed	<i>Bonasa umbellus</i>
	Grouse, Sharp-tailed	<i>Tympanuchus phasianellus</i>
	Grouse, Spruce	<i>Falcipecten canadensis</i>
	Partridge, Gray	<i>Perdix perdix</i>
	Pheasant, Ring-necked (all subspecies)	<i>Phasianus colchicus</i>
	Ptarmigan, Rock	<i>Lagopus mutus</i>
	Ptarmigan, White-tailed	<i>Lagopus leucurus</i>
	Ptarmigan, Willow	<i>Lagopus lagow</i>
	Quail, Bobwhite (all subspecies)	<i>Cotinus virginianus</i>
	Quail, California	<i>Callipepla californica</i>
	Quail, Gambel's	<i>Callipepla gambelii</i>
	Quail, Mountain	<i>Oreortyx pictus</i>
	Quail, Scaled	<i>Callipepla squamata</i>
	Turkey, Wild (all subspecies)	<i>Meleagris gallopava</i>
Mammals		
	<i>[Armadillo, Nine-banded]</i>	<i>[Dasypus novemcinctus]</i>
	Badger	<i>Taxidea taxus</i>
	<i>[Beaver]</i>	<i>[Castor canadensis]</i>
	Bobcat	<i>Lynx rufus</i>
	Chipmunk, Eastern	<i>Tamias striatus</i>
	Coyote	<i>Canis latrans</i>
	<i>[Deer, Mule]</i>	<i>[Odocoileus hemionus]</i>
	<i>[Deer, White-tailed]</i>	<i>[Odocoileus virginianus]</i>
	Fox, Gray	<i>Urocyon cinereoargenteus</i>
	Fox, Red	<i>Vulpes Vulpes</i>
	Groundhog (Woodchuck)	<i>Marmota monax</i>
	Mink	<i>Mustela vison</i>
	Muskrat	<i>Ondatra zibethicus</i>
	Opossum	<i>Didelphis virginiana</i>
	Otter, River	<i>Lontra canadensis</i>
	Rabbit, Eastern Cottontail	<i>Sylvilagus floridanus</i>
	Rabbit, Swamp	<i>Sylvilagus aquaticus</i>
	Raccoon	<i>Procyon lotor</i>
	Squirrel, Eastern Gray	<i>Sciurus carolinensis</i>
	Squirrel, Fox	<i>Sciurus niger</i>
	Squirrel, Franklin's Ground Squirrel,	<i>Spermophilus franklinii</i>
	Thirteen-lined Ground Squirrel,	<i>Spermophilus tridecemlineatus</i>
	Southern Flying	<i>Glaucomys Volans</i>
	Weasel, Least	<i>Mustela nivalis</i>
	Weasel, Long-tailed	<i>Mustela frenata</i>
Amphibians		
Salamanders		
	<i>[Newt, Central]</i>	<i>[Notophthalmus viridescens]</i>
	Salamander, Tiger	<i>Ambystoma tigrinum</i>
Frogs and Toads		
	Bullfrog	<i>[Rana] Lithobates catesbeian[a]us</i>
	Frog, Green (Bronze)	<i>[Rana] Lithobates clamitans</i>
	Frog, Southern Leopard	<i>[Rana] Lithobates sphenoccephal[a]us</i>

[Species Code No.] Permittee Type/Classification	Common Name	Scientific Name
Reptiles Turtles	Toad, American Treefrog, Eastern (Cope's) Gray Treefrog, Green	<i>[Bufo]</i> <i>Anaxyrus americanus</i> <i>Hyla versicolor/chrysozelis</i> <i>Hyla cinerea</i>
	Cooter, River Slider, Red-eared Softshell, Smooth Softshell, Spiny Turtle, Ornate Box Turtle, Alligator Snapping Turtle, Common Map Turtle, Common Musk (Stinkpot) Turtle, Common Snapping Turtle, Mississippi Mud Turtle, Southern Painted Turtle, Three-toed Box Turtle, Western Painted	<i>Pseudemys concinna</i> <i>Trachemys scripta elegans</i> <i>Apalone mutica</i> <i>Apalone spinifera</i> <i>Terrapene ornat[e]a</i> <i>Macrochelys [temminckii] spp.</i> <i>Graptemys geographica</i> <i>Sternotherus odoratus</i> <i>Chelydra serpentin[e]a</i> <i>Kinosternon subrubrum</i> <i>Chrysemys [picta] dorsalis</i> <i>Terrapene carolina triunguis</i> <i>Chrysemys picta belli</i>
	Lizards	Lizard, Eastern Collared Lizard, Prairie (Fence)
Snakes	Lizard, Slender Glass Lizard, Texas Horned Skink, Five-lined	<i>Phrynosoma cornutum</i> <i>[Eumeces] Plestiodon fasciatus</i>
Class II Wildlife Breeders	Bullsnake Kingsnake, Prairie Kingsnake, Speckled Snake, Black Rat	<i>Pituophis catenifer sayi</i> <i>Lampropeltis calligaster</i> <i>Lampropeltis getula holbrooki</i> <i>[Elaphe] Pantherophis</i> <i>obsoleta[a]us [obsolete]</i>
	Snake, Eastern Garter Snake, Eastern Hog-nosed Snake, Great Plains Rat	<i>Thamnophis sirtalis sirtalis</i> <i>Heterodon platirhinos</i> <i>[Elaphe] Pantherophis [guttata]</i> <i>emoryi</i>
	Snake, Red Milk Snake, Red-sided Garter Snake, Western Hog-nosed (<i>Dusty and</i> Plains)	<i>Lampropeltis triangulum sypila</i> <i>Thamnophis sirtalis parietalis</i> <i>Heterodon nasicus</i>
Class III Wildlife Breeders	Bear, Black (& hybrids) legally obtained under a valid Class II Wildlife Breeder Permit prior to August 30 , 2021	<i>Ursus americanus</i>
	Copperhead Cottonmouth	<i>Agkistrodon contortrix</i> <i>Agkistrodon piscivorus</i>
	Lion, Mountain (& hybrids) legally obtained under a valid Class II Wildlife Breeder Permit prior to August 30, 2021	<i>Puma concolor</i>
Class III Wildlife Breeders	Rattlesnake, Pygmy Rattlesnake, Timber (Canebrake)	<i>Sistrurus miliarius</i> <i>Crotalus horridus</i>
	Wolf, Gray [<i>& hybrids</i>] legally obtained under a valid Class II Wildlife Breeder Permit prior to August 30, 2021	<i>Canis lupus</i>
	Deer, Mule and their hybrids Deer, White-tailed and their hybrids	<i>Odocoileus hemionus</i> <i>Odocoileus virginianus</i>

[Species Code No.] Permittee Type/Classification	Common Name	Scientific Name
Wildlife Exhibitors Permit	Elk and their hybrids (unless raised for food production and not commingled with mule deer and white-tailed deer and their hybrids)	<i>Cervus elaphus</i>
Game Bird Hunting Preserves	Species of wildlife permitted under 3 CSR 10-9.370.	
Big Game Hunting Preserves	Ducks, Mallard Partridges, Exotic (all species) Pheasants (all species) Quail (all species) Antelope, Pronghorn Boar, Wild (including feral hogs, razorback hogs, European boars and other pig species) Caribou (Reindeer) Deer, Fallow Deer, Mule Deer, Red Deer, Sika Deer, White-tailed Elk Goat, Mountain Moose Sheep, Bighorn Sheep, Dall Ungulates (other species)	<i>Anas platyrhynchos</i> All species All species All species <i>Antilocapra Americana</i> <i>Rangifer tarandus</i> <i>Dama dama</i> <i>Odocoileus hemionus</i> <i>Cervus</i> species <i>Cervus nippon</i> <i>Odocoileus virginianus</i> <i>Cervus elaphus</i> <i>Oreamnos americanus</i> <i>Alces alces</i> <i>Ovis canadensis</i> <i>Ovis dalli</i> deer, antelope deer, goats, sheep, etc.
Wildlife Hobby Permit	Badger [Beaver] Bobcat Coyote Fox, Gray Fox, Red Groundhog (Woodchuck) Mink Muskrat Opossum Otter, River Pheasant, Ring-necked (all subspecies) Quail, Bobwhite (all subspecies) Rabbit, Eastern Cottontail Rabbit, Swamp Raccoon Squirrel, Eastern Gray Squirrel, Fox Weasel, Least Weasel, Long-tailed	<i>Taxidea taxus</i> <i>[Castor canadensis]</i> <i>Lynx rufus</i> <i>Canis latrans</i> <i>Urocyon cinereoargenteus</i> <i>Vulpes Vulpes</i> <i>Marmota monax</i> <i>Neovison vison</i> <i>Ondatra zibethicus</i> <i>Didelphis virginiana</i> <i>Lontra canadensis</i> <i>Phasianus colchicus</i> <i>Colinus virginianus</i> <i>Sylvilagus floridanus</i> <i>Sylvilagus aquaticus</i> <i>Procyon lotor</i> <i>Sciurus carolinensis</i> <i>Sciurus niger</i> <i>Mustela nivalis</i> <i>Mustela frenata</i>
Wildlife Collector's Permit	Species and numbers of each are limited to those specified on the permit.	
Resident Falconry Permit	Birds of prey as permitted under 3 CSR 10-9.422.	

<i>[Species Code No.]</i> Permittee Type/Classification	Common Name	Scientific Name
Hound Running Area Operator and Dealer Permit	Coyote Fox, Gray Fox, Red	<i>Canis latrans</i> <i>Urocyon cinereoargenteus</i> <i>Vulpes Vulpes</i>
Field Trial Permit	Ducks, Mallard Partridges, Exotic (all species) Pheasants (all species) Quail (all species)	<i>Anas platyrhynchos</i> All species All species All species
Dog Training Area Permit	<i>[Drake]</i> Ducks, Mallard Partridges, Exotic (all species) Pheasants (all species) Quail (all species)	<i>Anas platyrhynchos</i> All species All species All species

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed June 9, 1993, effective Jan. 1, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 29, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.110 General Prohibition; Applications. The commission proposes to amend section (2) and add a new subsection (3)(I) to this rule.

PURPOSE: This amendment clarifies that non-native mammals held within licensed big game hunting preserves are currently not exempt from permit requirements and specifically authorizes the exhibition of those species of fish listed on the Approved Aquatic Species List without permit.

(2) Except for federally-designated endangered species and species listed in 3 CSR 10-4.117 and 3 CSR 10-9.240, the following may be bought, sold, possessed, transported, and exhibited without permit: Asian clams (*Corbicula* species) taken from impoundments that are not waters of the state; bison; amphibians, reptiles, and mammals not native to Missouri **except those mammals located in a licensed big game hunting preserve**; and those birds (except ring necked pheasants and gray partridge) not native to the continental United States.

(3) Fish and crayfish may be bought, sold, transported, propagated, taken, and possessed by any person without permit throughout the year in any number or size and by any method providing—

(I) Fish listed on the Approved Aquatic Species List in subsection (3)(H) of this rule, may be exhibited without permit.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule was previously filed as 3 CSR 10-4.110(5), (6), and (10). Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.220 Wildlife Confinement Standards. The commission proposes to add a new subsection (1)(A) and re-letter subsequent subsections, and amend sections (2), (4), (6), (8), and Appendix A to section (5) of this rule.

PURPOSE: These amendments require any person holding wildlife in confinement under permit to report all wildlife escapes immediately to a conservation agent, changes the term "captive" to "confined" for most references to wildlife, and modifies confinement standards for certain species of wildlife held in confinement. It also reflects the creation of a Class III Wildlife Breeder Permit for certain cervids currently held under Class I and II Wildlife Breeder Permits. Finally, the amendments remove circuses, bona fide research facilities, and fur farms from the current exemption for compliance with confinement standards.

(1) Cages, pens, or other enclosures for confining wildlife shall be well braced, securely fastened to the floor or ground, covered with a top as required, and constructed with material of sufficient strength to prevent escape. Animals may not be released to the wild and must be confined at all times in cages, pens, or enclosures except in lead or drag races, or birds held under a falconry permit or as otherwise permitted in this chapter. Except for unweaned young, Class II wildlife and bobcat, American badger, coyote, red fox, and gray fox may not roam freely anywhere within a residence or inhabited dwelling. The following requirements shall be met:

(A) Any person holding any wildlife in confinement under permit within the provision of this chapter shall report all escapes immediately to a conservation agent;

[(A)](B) Clean drinking water shall be available in adequate amounts at all times. Semiaquatic animals, such as beaver and muskrat, shall be provided a pool of sufficient water depth for the animal to completely submerge;

[(B)](C) A shelter shall be provided for security and protection from inclement weather. Shade or an overhead structure shall be provided in warm seasons;

[(C)](D) **[Captive] Confined** wildlife shall be fed daily or as required with a diet appropriate to the species and the age, size, and condition of the animal. Feeding containers shall be kept clean and uneaten food removed within a reasonable time;

[(D)](E) Animal wastes shall be removed daily and disposed of properly. If bedding is provided, it shall be cleaned out and replaced every two (2) weeks; *[and]*

[(E)](F) Facilities for holding captive-reared migratory waterfowl must be designed to prevent escape to surrounding properties and managed to prevent contact with non-captive migratory waterfowl. Captive-reared mallard ducks may be temporarily released for flight exercise beginning one (1) hour after sunrise. Facilities must be designed to re-capture such ducks, and a reasonable effort must be made to re-capture them by one (1) hour after sunset each day.; **and**

[(F)](G) Captive-reared mallard ducks must be physically marked prior to six (6) weeks of age by removal of the hind toe from the right foot, or by tattooing of a readily discernible number or letter or combination thereof on the web of one (1) foot. Other captive-reared

migratory waterfowl must be physically marked prior to six (6) weeks of age by at least one (1) of the following methods and as provided in federal regulations:

1. Removal of the hind toe from the right foot;
2. Pinioning of a wing; provided that this method shall be the removal of the metacarpal bones of one (1) wing or a portion of the metacarpal bones which renders the bird permanently incapable of flight;
3. Banding of one (1) metatarsus with a seamless metal band; and
4. Tattooing of a readily discernible number or letter or combination thereof on the web of one (1) foot.

NOTE: *[[For federal regulations on migratory waterfowl, see Title 50, Parts 20 and 21 of the Code of Federal Regulations.]]*

(2) Cages, pens, or other enclosures for Class I and Class III wildlife shall meet the following standards:

Species	Minimum Enclosure Space (sq. ft.)	Space Per Each Additional Animal (sq. ft.)	Enclosure Height (ft.)
(A) American Badger	30	6	4
(B) Beaver	40	8	5
(C) Bobcat	32	8	6
(D) Coyote	80	25	6
(E) E. Cottontail Rabbit	15	3	3
(F) Fox Squirrel	9	3	4
(G) Gray Fox	40	8	5
(H) Gray Squirrel	9	3	4
(I) Groundhog	12	3	5
(J) Mink	9	3	2
(K) Muskrat	12	5	3
<i>[(L) Nine-banded Armadillo]</i>	12	4	2]
<i>[(M)](L) Otter</i>	36	6	4
<i>[(N)](M) Raccoon</i>	24	6	5
<i>[(O)](N) Red Fox</i>	40	8	5
<i>[(P)](O) Virginia Opossum</i>	12	3	3
<i>[(Q)](P) Wease</i>	9	3	2
<i>[(R)](Q) [White-tailed Deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids]</i>			
Cervids	500	125	See 3 CSR 10-9.220(3)

(4) Care of *[captive]* **confined** turtles shall meet requirements set out in section (1). At least ten (10) gallons of water shall be provided for each adult aquatic turtle over four inches (4") in shell length, and three (3) gallons of water shall be provided for each hatchling or turtle under four inches (4") in shell length. At least four (4) square feet of ground space shall be provided for each box turtle over three inches (3") in shell length and one (1) square foot of ground space shall be provided for each hatchling or turtle under three inches (3") in shell length.

(5) Cages, pens, or other enclosures for confining Class II wildlife shall be constructed to prevent direct physical contact with the public. At a minimum, this may be accomplished by a secondary barrier of wire mesh no smaller than eleven and one-half (11 1/2) gauge with openings of no more than nine (9) square inches, with a minimum

distance of three feet (3') between animal cage and public and a minimum height of six feet (6'). Doors shall remain locked at all times with appropriate locks and chains. Enclosures shall be constructed with a den, nest box, or connected housing unit that can be closed off and locked with the animal inside, or be a divided cage with a door between the compartments, to allow servicing and cleaning. The enclosure mesh size or spacing of bars shall be sufficient to prevent escape. A barrier system of wet or dry moats or structures, as approved by the American Association of Zoological Parks and Aquariums, will meet these requirements.

(B) Cages, pens, or other enclosures for Class II wildlife shall meet the standards outlined in Appendix A of this rule, which is included herein.

(6) Mobile temporary *[exhibit]* enclosures and wildlife auction/sale facilities may be used to confine wildlife, except *[white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids,]* **Class III wildlife**, for no more than fourteen (14) days and shall meet the following criteria:

(A) Facilities **or enclosures** shall be of sufficient size to ensure that each animal or compatible groups of animals can stand erect, turn about freely, and lie naturally. Facilities **or enclosures** shall be designed to provide fresh air, be free from injurious drafts and engine exhaust fumes, and provide adequate protection from the elements. The structural strength of the facilities shall be sufficient to contain the wildlife and to withstand the normal rigors of transportation;

(B) Class I wildlife facilities **or enclosures** shall contain doors that are locked when unattended, but easily accessible at all times for emergency removal of the wildlife;

(C) Facilities **or enclosures** for Class II wildlife and bobcat, American badger, coyote, red fox, and gray fox shall be designed to prevent direct physical contact by the public and constructed of steel or case-hardened aluminum. Facilities **or enclosures** must have at least two (2) openings which are easily accessible at all times for emergency removal of the wildlife. Doors shall be locked at all times; and

(8) Requirements of this rule shall not apply to wildlife under the care of a veterinarian or rehabilitation center, or to animals legally held in *[circuses,]* publicly owned zoos,*[,] and* American Zoo and Aquarium Association (AZA) accredited not-for-profit facilities *[, bona fide research facilities or on fur farms whose sole purposes are to sell pelts or live animals to other fur farms and whose facilities meet generally accepted fur farming industry standards and adhere to provisions of sections (1), (5), and (6) of this rule].*

APPENDIX A

CAGE, PEN OR OTHER ENCLOSURE STANDARDS FOR CLASS II WILDLIFE

3 CSR 10-9.220 (5) [Revised 06/24/96, 03/01/03, 03/01/07]

Species	Enclosure Space (sq. ft.)	Space per Each Additional Animal	Enclosure Height (feet)	Cage Material
Black Bear or hybrids	150	50% larger	8(w/top) or 10(w/o top - 12 after 3/03)	Not smaller than 9 gauge steel chain link; top required for 8-foot enclosure; 3-foot lean-in on top of fence acceptable for 10-foot enclosure. (For enclosures constructed after 3-1-03, height (without top) must be 12 feet with 3-foot lean-in on top; two strands of hot wire (8000-10000 volt) on fence, one strand on lean-in, one strand along bottom or middle of fence; 4-inch concrete floor or non-rust 9 gauge chain link buried 2 feet and angled underground toward enclosure interior, or for pens anchored flush with ground, 3-foot interior dig-out panel required at ground surface.)
Mountain Lion or hybrids	200	50% larger	8	Not smaller than 11 gauge steel chain link; top required
Wolf [or hybrids]	200	50% larger	6	Not smaller than 9 gauge steel chain link; 4-inch concrete floor or non-rust 9 gauge chain link buried 2 feet and angled underground toward enclosure interior, or for pens anchored flush with ground, 3-foot interior dig-out panel required at ground surface; top required, except 8-foot fence with 3-foot lean-in acceptable for wolves.
Venomous Snakes	(Perimeter must be 1 1/2 times length of longest snake)	25% larger		When on public display outside approved confinement facility, any side of exhibit cage exposed to the public shall have a double glass or escape-proof double mesh barrier designed to prevent contact between venomous reptile and the public.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule was previously filed as 3 CSR 10-3.020. Original rule filed Nov. 2, 1984, effective Feb. 11, 1985. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards**

PROPOSED RULE

3 CSR 10-9.223 Wildlife Movement: Certification, Requirements

PURPOSE: This rule clarifies that all wildlife held or transported in confinement shall comply with applicable state and federal animal health standards and movement requirements.

(1) All persons holding or transporting wildlife in confinement shall comply with applicable state and federal regulations for animal health standards and movement requirements. These records shall be maintained on the premises and shall be subject to inspection by a conservation agent at any reasonable time for a period of at least five (5) years.

(2) Live white-tailed deer, white-tailed deer-hybrids, mule deer, mule deer-hybrids, raccoons, foxes, and coyotes may not be imported into this state. The movement of Class III wildlife held under permit within the provisions of this chapter shall also comply with 3 CSR 10-9.354 and 3 CSR 10-9.565.

(3) Live skunks may not be imported, bought, sold, transported, given away, or otherwise disposed of in this state.

(4) Live Eastern cottontail rabbits, swamp rabbits, and jackrabbits may only be imported or transported into this state, as follows:

(A) Eastern cottontail rabbits, swamp rabbits, and jackrabbits originating from a state or country where Rabbit Hemorrhagic Disease (RHD) has been diagnosed in the prior twelve (12) months may not be imported or transported into Missouri. Eastern cottontail rabbits, swamp rabbits, and jackrabbits originating from a state or country other than those where RHD has been diagnosed in the prior twelve (12) months may be imported only by the holder of an entry permit issued by the state wildlife veterinarian;

(B) Any person requesting entry of such rabbits or hares shall submit a Certificate of Veterinary Inspection to the state wildlife veterinarian. To obtain an entry permit from the state wildlife veterinarian, the Certificate of Veterinary Inspection must state the following:

1. All eastern cottontail rabbits, swamp rabbits, and jackrabbits in the shipment have been examined within seventy-two (72) hours of shipment for and found free of communicable diseases and have orig-

inated from a single premise that has no signs of a communicable disease;

2. There has been no movement of rabbits or hares onto the originating premises within thirty (30) days prior to the shipment; and

3. No rabbits in the shipment have had contact with free-ranging wild rabbits or hares within thirty (30) days prior to the shipment; and

(C) For the purposes of this section, the term Certificate of Veterinary Inspection means a legible record made on an official form of the state of origin, issued by an accredited licensed veterinarian. The official Certificate of Veterinary Inspection shall state that the animal(s) are free of visible signs of contagious, infectious, or communicable disease and describe the animal(s) by species, breed, sex, and age.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards**

PROPOSED AMENDMENT

3 CSR 10-9.230 Class I Wildlife. The commission proposes to amend this rule.

PURPOSE: This amendment clarifies that permits to hold wildlife in confinement will only be issued for those species of Class I wildlife listed for each permit type on the Approved Confined Wildlife Species List, removes redundant references to bullfrogs and green frogs, and removes permit exemptions for elk defined as livestock from this rule so it can be relocated to 3 CSR 10-9.250 and 9.352.

Class I wildlife shall include [bullfrogs and green frogs and] birds (including ring-necked pheasants and gray partridge) native to the continental United States, and those species of mammals (except bison and those listed in 3 CSR 10-9.240 and 3 CSR 10-9.250) and nonvenomous reptiles and amphibians native to Missouri. [Elk defined as livestock pursuant to the Revised Statutes of Missouri section 277.020 that are held separate so as to prevent commingling with mule deer and white-tailed deer are exempt from permit requirements.] Permits to hold Class I wildlife in confinement will only be issued for the specific species of wildlife approved for each permit type on the Approved Confined Wildlife Species List in 3 CSR 10-9.105.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 9, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.240 Class II Wildlife. The commission proposes to amend this rule.

PURPOSE: This amendment clarifies that permits to hold wildlife in confinement will only be issued for those species of Class II wildlife listed for each permit type on the Approved Confined Wildlife Species List.

Class II wildlife shall include copperheads, cottonmouths, timber rattlesnakes, pygmy rattlesnakes, massasauga rattlesnakes, mountain lions or mountain lion-hybrids, wolves or wolf-hybrids, and black bears or black bear-hybrids. **Permits to hold Class II wildlife in confinement will only be issued for the specific species of wildlife approved for each permit type on the Approved Confined Wildlife Species List in 3 CSR 10-9.105.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Oct. 6, 1993, effective Jan. 31, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards

PROPOSED RULE

3 CSR 10-9.250 Class III Wildlife

PURPOSE: This rule defines Class III wildlife and clarifies that permits to hold cervids in confinement will only be required for those species of Class III wildlife listed on the Approved Confined Wildlife Species List.

Class III wildlife shall include all cervids as defined in 3 CSR 10-20.805. Permits to hold Class III wildlife in confinement are only required for the specific species of wildlife approved for each permit type on the Approved Confined Wildlife Species List in 3 CSR 10-9.105.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.350 Class I Wildlife Breeder Permit. The commission proposes to amend this rule by reformatting the text of the existing rule into section (1) and adding a new section (2).

PURPOSE: The amendments to this rule add exemptions to the Class I Wildlife Breeder Permit requirement that were removed from 3 CSR 10-9.230 and 3 CSR 10-9.353 to this rule. The existing permit exemption for circuses is removed.

(1) To exercise the privileges of a Class I wildlife breeder. Fee: fifty dollars (\$50).

(2) The following exemptions to the Class I Breeder Permit requirements of this chapter shall apply:

(A) A Class I wildlife breeder permit shall not be required for wildlife legally held by publicly owned zoos, or Association of Zoos and Aquariums (AZA) accredited not-for-profit facilities; however, such wildlife may not be held for personal use;

(B) A Class I wildlife breeder permit shall not be required of individuals holding migratory birds under valid federal authorization; except that a Class I Wildlife Breeder Permit or a Licensed Hunting Preserve Permit is required if captive-reared mallard ducks are held for the purpose of sale to or use in hunting preserves, field trials, or dog training areas, as prescribed in this chapter. Captive-reared mallard ducks may not be hunted except as prescribed in 3 CSR 10-9.565, 3 CSR 10-9.625, or 3 CSR 10-9.628 of this Code, and federal regulations. All captive-reared migratory waterfowl must be confined and marked as prescribed in 3 CSR 10-9.220. **NOTE:** For federal regulations on migratory waterfowl, see Title 50, Parts 20 and 21 of the Code of Federal Regulations; and

(C) A Class I Wildlife Breeder Permit shall not be required for the propagation, sale, or display of birds of prey by persons holding a valid federal permit; provided that these birds may be used to take or attempt to take wildlife only by persons holding a valid falconry permit.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-10.750. Original rule filed Aug. 18, 1970, effective Dec. 31, 1970. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 22, 2021.

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.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an estimated three thousand two hundred fifty dollars (\$3,250) in permit sales revenue.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards**

PROPOSED AMENDMENT

3 CSR 10-9.351 Class II Wildlife Breeder Permit. The commission proposes to amend this rule by reformatting the text of the existing rule into section (1), amend the reformatted section (1), and add a new section (2).

PURPOSE: The amendments to this rule specify that Class II breeder privileges may only be exercised for black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves that were obtained under a valid Class II Wildlife Breeder Permit prior to August 30, 2021, creates an exemption to the Class II breeder permit requirements for wolf-hybrids, and adds an exemption to the Class II breeder permit requirements that was removed from 3 CSR 10-9.353, with the exception of the exemption for circuses.

(1) To exercise the privileges of [both] a [Class I and] Class II wildlife breeder, **except these privileges may only be exercised for black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves obtained under a valid Class II Wildlife Breeder Permit prior to August 30, 2021.** Fee: two hundred fifty dollars (\$250).

(2) The following exemptions to the Class II breeder permit requirements of this chapter shall apply:

(A) Wolf-hybrids are exempt from permit requirements; and

(B) Wildlife legally held by publicly owned zoos, or Association of Zoos and Aquariums (AZA) accredited not-for-profit facilities are exempt from permit requirements; however, such wildlife may not be held for personal use.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 9, 1993, effective Jan. 31, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 29, 2021.

FISCAL NOTE

PUBLIC COST

- I. **Department Title:** 3 – Department of Conservation
Division Title: 10 Conservation Commission
Chapter Title: 9—Wildlife Code: Confined Wildlife, Privileges, Permits, Standards

Rule Number and Name:	3 CSR 10-9.351 Class II breeder permits
Type of Rulemaking:	Proposed Amendment

II. **SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Conservation	\$ 3,250 loss of permit revenue

III. **WORKSHEET**

There are currently thirteen (13) Class II wildlife breeders holding black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, wolves and wolf-hybrids in confinement under a Class II wildlife breeder permit. Six of these breeders are holding only wolf-hybrids and will no longer be required to have a permit. For the remaining seven (7) breeders, when the current animals held under these permits die, are sold, given away, or otherwise disposed of, a Class II breeder permit will no longer be issued. For these breeders, the animals could live between one (1) and fifteen (15) more years.

13 (Number of Class II breeder permits currently issued for black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves and wolf-hybrids) X \$250 (annual cost of a Class II breeder permit) = \$3,250 one-time loss when permit no longer required or issued

ASSUMPTIONS

This estimate assumes that the holder of a Class II breeder permit holding black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves and wolf-hybrids will not acquire additional animals (such as native venomous snakes) that would require them to continue to maintain a Class II breeder permit. For the seven breeders holding these animals, we assume that the animals will live and a permit will continue to be required between one (1) and fifteen (15) more years. It also assumes a one-time loss in permit revenue when the animals held under permit die, are sold, given away, or otherwise disposed of.

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

PROPOSED RULE

3 CSR 10-9.352 Class III Wildlife Breeder Permit

PURPOSE: This rule establishes a Class III Wildlife Breeder Permit for breeders holding Class III wildlife that is required to be permitted and establishes the permit exemptions.

(1) To exercise the privileges of a Class III wildlife breeder. Fee: fifty dollars (\$50).

(2) The following exemptions to the Class III Wildlife Breeder Permit requirements of this chapter shall apply:

(A) Class III wildlife held in confinement that are not listed on the Approved Confined Wildlife Species List in 3 CSR 10-9.105 are exempt from permit requirements; and

(B) Elk raised for food production and that are held separate so as to prevent commingling with other cervids listed on the Approved Confined Wildlife Species List in 3 CSR 10-9.105 are exempt from permit requirements.

(3) For purposes of this chapter, animals are commingling or commingled if they have direct contact with each other, have less than ten feet (10') of physical separation, or have indirect contact through shared equipment, pasture, or water sources. Animals are considered to have commingled if they have had such contact with a Chronic Wasting Disease (CWD)-positive animal or contaminated premises within the last five (5) years.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed Jan. 22, 2021.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated two thousand two hundred twenty dollars and forty cents (\$2,220.40) in staff time to implement this rule.

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this 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:** 3 – Department of Conservation
Division Title: 10 Conservation Commission
Chapter Title: 9—Wildlife Code: Confined Wildlife, Privileges, Permits, Standards

Rule Number and Name:	3 CSR 10-9.352 Class III breeder permits
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Conservation	\$2,220.40 one-time staff cost to adjust permit database and convert existing Class I and II permits with cervids to Class III

III. WORKSHEET

Permit services staff will have to spend approximately 80 hours to create a new Class III permit within the permit database and convert existing Class I and II permits with cervids to Class III. Highest hourly salary rate for permit services staff was used to calculate cost: 80 x \$27.78 per hour = 2,222.40.

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

PROPOSED AMENDMENT

3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders. The commission proposes to amend sections (1), (2), and (3); remove sections (5), (6), (7), (8), (14), (15), (17), (18), (19), and (20); renumber subsequent sections; and move a deleted portion of the new section (9) to create a new section (11).

PURPOSE: The amendments to this rule clarify the requirements for holding wildlife in confinement and improve the organization of Chapter 9 of the Wildlife Code; modify the privileges of Class II wildlife breeders related to black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves to prohibit the addition of new animals to Class II breeding operations currently holding these species; removes the permit exemption for non-residents exhibiting wildlife at special events; and removes the wildlife exhibition privilege (excluding gamebirds, amphibians, reptiles, and at consignment sales) from the privileges granted to Class I and Class II wildlife breeders. This rule establishes privileges and requirements for wildlife breeders. It has been reorganized from an older version to provide better organization and understanding, and to clarify that migratory waterfowl may be reared and held in captivity as provided in federal regulations but that such waterfowl may only be hunted as provided in 3 CSR 10-9.625 of this Code. It also removes permit exemptions, which have been moved to 3 CSR 10-9.350 and 3 CSR 10-9.351. Finally, it moves all provisions related to cervids to the new Class III wildlife breeder privileges section at 3 CSR 10-9.354.

(1) Class I and Class II wildlife as defined in 3 CSR 10-9.230 and 3 CSR 10-9.240, may be *[exhibited, propagated, reared, or]* held in *[captivity]* **confinement** by the holder of the appropriate Class I or Class II wildlife breeder permit at a specific location indicated on the permit. **Class I wildlife may also be propagated or reared at a specific location listed on the permit, and Class I and Class II gamebirds, amphibians, and reptiles may be propagated, reared, or exhibited by the holder of the appropriate Class I or Class II wildlife breeder permit at a specific location listed on the permit.** Applicants for a *[Class I permit to hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids, or a]* **Class II Wildlife Breeder** *[P]* permit must qualify by passing with a score of at least eighty percent (80%) on a written examination provided by the department.

(2) Such wildlife may be **possessed**, used, sold, given away, transported, or shipped; provided, **the provisions of 3 CSR 10-9.223 are followed and** that state and federally-designated endangered species may not be sold without the written approval of the director; *[that skunks may not be imported, bought, sold, transported, given away, or otherwise disposed of; that live white-tailed deer, white-tailed deer-hybrids, mule deer, mule deer-hybrids, raccoons, foxes, and coyotes may not be imported]* **that black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves may not be sold or given away to the holder of a Class II wildlife breeder permit;** and that wildlife may be sold or given away only to the holder of the appropriate permit, where required, except as provided in section *[(9)](5)* of this rule.

(3) A permit may be granted after satisfactory evidence by the applicant that stock will be secured from a legal source other than the wild stock of this state; that the applicant will confine the wildlife in humane and sanitary facilities that meet standards specified in 3 CSR 10-9.220; and that the applicant will prevent other wildlife of the

state from becoming a part of the enterprise. *[Any person applying for a Class I or Class II Wildlife Breeder Permit to hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids shall complete an application involving on-site inspections of the area prior to and following construction activities by an agent of the department to determine that all provisions of this rule are met before a permit is issued.]*

[(5) No Class I or Class II wildlife breeder permit is required for wildlife legally held by circuses, publicly owned zoos, American Zoo and Aquarium Association (AZA) accredited not-for-profit facilities, or bona fide research facilities; however, those wildlife may not be held for personal use. Physical contact between humans and Class I and Class II wildlife in circuses must be restricted to the handlers, performers, or other circus employees.

(6) No Class I or Class II wildlife breeder permit is required for nonresidents possessing a valid permit issued in another state to exhibit legally possessed wildlife at special events, not to exceed seven (7) consecutive days; provided that:

(A) Notification is made to an agent of the department prior to entry of wildlife into the state.

(B) Exhibited wildlife may not be sold, offered for sale, or given away.

(C) All other provisions of this chapter shall apply, including mobile temporary exhibit confinement standards as specified in 3 CSR 10-9.220.

(7) All captive-reared migratory waterfowl must be confined and marked as prescribed in 3 CSR 10-9.220. No state permit shall be required of individuals holding migratory waterfowl under valid federal authorization; except that a Class I wildlife breeder permit or a licensed hunting preserve permit is required if captive-reared mallard ducks are held for the purpose of sale to or use in hunting preserves, field trials, or dog training areas, as prescribed in this chapter. Captive-reared mallard ducks may not be hunted except as prescribed in 3 CSR 10-9.565, 3 CSR 10-9.625 or 3 CSR 10-9.628 of this Code, and federal regulations.

NOTE: (For federal regulations on migratory waterfowl, see Title 50, Parts 20 and 21 of the Code of Federal Regulations.)

(8) No state permit shall be required for the propagation, sale, or display of birds of prey by persons holding a valid federal permit; provided that these birds may be used to take or attempt to take wildlife only by persons holding a valid falconry permit.]

[(9)](5) Wildlife, except [white-tailed deer, white-tailed deer-hybrids, mule deer, mule deer-hybrids,] skunks, foxes, coyotes, and raccoons may be shipped, transported, or consigned to a wildlife breeder by nonresidents without a Missouri wildlife breeder permit, but that wildlife shall be accompanied by appropriate permit or other proof of legality in the state of origin. Persons purchasing wildlife at consignment sales shall obtain a wildlife hobby or appropriate wildlife breeder permit prior to the purchase, except nonresidents may possess and transport purchased wildlife without permit for forty-eight (48) hours following close of the sale.

[(10)](6) Notification of the date and place of any public sale of consigned wildlife shall be provided to the conservation agent of the county in which the sale will be held not less than thirty (30) days prior to the sale.

[(11)](7) All black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves [and wolf-hybrids] defined as

Class II wildlife in 3 CSR 10-9.240 and introduced into a Class II wildlife breeder operation and/or currently held under such permit are subject to the following requirements:

(A) *[Within sixty (60) days of birth or acquisition, a]*Animals shall be permanently tagged or marked with an identification number via a subcutaneous microchip Passive Integrated Transponder tag (PIT tag) provided by the department implanted along the animal's back between the shoulder blades, which uniquely identifies each individual animal;

(B) A blood or tissue sample sufficient for DNA analysis *[and registration]* for each animal shall be submitted to the department *[within sixty (60) days of birth or acquisition]* **upon request**; and

(C) The holder of a Class II wildlife breeder permit shall report the death, sale, or transfer of any animal within three (3) days to *[an agent of the department]* a **conservation agent**, including the identification number from the animal's subcutaneous microchip. Microchips shall not be reused in other animals.

[(12)](8) The holder of a Class I or Class II wildlife breeder permit may exhibit wildlife, *except white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids,* *[at locations other than those listed on the permit]* **the locations of wildlife consignment sales for the purpose of sale. Class I and Class II gamebirds, amphibians, and reptiles may be exhibited by the holder of the appropriate Class I or Class II wildlife breeder permit at locations other than those listed on the permit.**

[(13)](9) Any sale, shipment, or gift of wildlife by a Class I or Class II wildlife breeder shall be accompanied by a written statement giving *[his/her]* **the breeder** permit number and showing the number of each species and the name and address of the recipient. *[No wildlife of any kind may be liberated unless specific permission has been granted on written application to the conservation agent in the county where the release is to be made.]*

[(14)] *None of these privileges shall extend to permitting the act of hunting for such stock except that big game mammals may be killed for purposes of herd management by the permit holder or his/her agents, but only with authorization from an agent of the department.*

[(15)] *The holder of a Class I or Class II wildlife breeder permit shall report escaped animals immediately to an agent of the department.]*

[(16)](10) The holder of a Class I wildlife breeder permit may sell legally acquired game bird eggs or dressed or processed quail, pheasants, and partridges at retail and to commercial establishments under provisions of 3 CSR 10-10.743, provided all sales are accompanied by a valid invoice, and the required records are maintained by the wildlife breeder.

[(17)] *Except as provided in this section, the holder of a Class I or Class II wildlife breeder permit shall have an accredited veterinarian collect and submit samples from all known cases of mortality for cervids over six (6) months of age to a United States Department of Agriculture-approved laboratory for Chronic Wasting Disease testing. The department reserves the right to require additional sampling and testing during disease investigations or morbidity/mortality events. Animal health standards and movement activities shall comply with all state and federal regulations. The holder of a Class I or Class II wildlife breeder permit must maintain participation in a United States Department of Agriculture-approved Chronic Wasting Disease herd certification program to hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids; failure to participate and*

comply with the certification program may result in the suspension or revocation of permit privileges.

(A) In the event of a mass casualty/mortality event, the director of the department may exempt the holder of a Class I or Class II wildlife breeder permit from the Chronic Wasting Disease testing requirements within this rule. The following conditions apply:

1. All mass casualty/mortality event exemption requests must originate from an accredited veterinarian and must be verbally reported to a conservation agent, regional protection supervisor, or the state wildlife veterinarian of the department.

2. The department will have access to collect and submit disease samples from all known cases of mortality for cervids, pertaining to, and in the event of a mass casualty/mortality event.

(18) Confirmed positive results from any disease test for a white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids must be verbally reported by the permit holder to a conservation agent or regional protection supervisor of the department within twenty four (24) hours of receiving the report and provide a copy of the testing report to the state wildlife veterinarian of the department within seventy two (72) hours of receiving the report. In the event of confirmed positive results from a Chronic Wasting Disease test, the permit holder shall comply with a herd disease response plan approved by the department. The plan may include, but not be limited to, quarantine requirements, testing and depopulation, premises cleaning and disinfection, additional fencing requirements, and restocking guidelines. Failure to comply with an approved herd disease response plan may result in the suspension or revocation of permit privileges.

[(19)] *All white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids acquired by a permit holder must be individually identified on a Breeder's Movement Certificate or a Certificate of Veterinary Inspection. A Breeder's Movement Certificate may be completed by the breeder. The form must list the official identification, age, gender, species, complete address of both the origin and destination, and complete address and name of both the buyer and seller. The original form must accompany the shipment and a copy shall be maintained by the herd of origin for at least five (5) years. Sources for white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids must be enrolled in a United States Department of Agriculture-approved Chronic Wasting Disease herd certification program.*

(20) New permits for Class I and Class II wildlife breeding facilities for white-tailed deer, white-tailed deer hybrids, mule deer, or mule deer hybrids will not be issued for a period of five (5) years within twenty-five (25) miles of a location where Chronic Wasting Disease-positive animal(s) have been confirmed by the department; except, new permits may be issued during this time period for the existing location of a Class I or Class II wildlife breeding facility with a valid permit for white-tailed deer, white-tailed deer hybrids, mule deer, or mule deer hybrids.]

(11) No Class I or II wildlife may be liberated unless specific permission has been granted on written application to the conservation agent in the county where the release is to be made.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule was previously filed as 3 CSR 10-10.755. Original rule filed Aug. 18, 1970, effective Dec. 31, 1970.

For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards**

PROPOSED RULE

3 CSR 10-9.354 Privileges of Class III Wildlife Breeders

PURPOSE: This rule establishes the privileges and requirements for Class III wildlife breeders.

(1) Except as otherwise provided in 3 CSR 10-9.352, Class III wildlife may be propagated, reared, or held in captivity by the holder of the appropriate Class III Wildlife Breeder Permit only at the specific location identified on the permit. Applicants for a Class III Wildlife Breeder Permit must qualify with a score of at least eighty percent (80%) on a written examination provided by the department to test their knowledge of these regulations. The privileges and requirements of this rule shall apply only to those species (including their hybrids) listed on the Approved Confined Wildlife Species List in 3 CSR 10-9.105 for Class III Wildlife Breeders.

(2) Such Class III wildlife shall be moved, transported, or received by the holder of Class III Wildlife Breeder Permit in accordance with the following:

(A) Only the holder of a Class III Wildlife Breeder Permit with movement qualified status may receive or move permitted Class III wildlife within and outside of the state; in addition to any certificates required by the importing state. Class III Wildlife Breeder Permit holders will attain and maintain movement-qualified status if they 1) maintain a complete and accurate inventory (including identification requirements) as required in this chapter, 2) conduct Chronic Wasting Disease testing as required in this chapter, and 3) maintain all fences as required in this chapter. The holder of a Class III Wildlife Breeder Permit will lose movement qualified status if, after issuance of a notice of discrepancy by the department specifying the violation of any of the requirements in this section, the permit holder fails to correct the deficiency within thirty (30) days. Movement qualified status will be reinstated when the permit holder receives notice from the department that the discrepancy has been corrected;

(B) Class III wildlife transported within the state must be accompanied by a Movement Certificate issued by the department prior to movement and transported on the date specified on the Movement Certificate for transfer. The Movement Certificate must be complete, accurate, and contain the official identification, age, gender, species, complete address of both the origin and destination, complete name and address of both the buyer and seller, and the permit numbers of all parties to the transaction. The original Movement Certificate must

accompany the shipment and a copy shall be maintained by the herd of origin for at least five (5) years, unless otherwise documented in a department-provided database. Movement of Class III wildlife within the state may only occur between movement-qualified Class III breeders or from movement-qualified Class III breeders to hunt-qualified licensed big game hunting preserves; and

(C) Movement of any Class III wildlife without an approved Movement Certificate or maintaining non-movement qualified status for over ninety (90) days, except as otherwise provided, shall be sufficient cause for permit suspension or revocation.

(3) Applications for a Class III Wildlife Breeder Permit may be granted after satisfactory evidence by the applicant that stock will be secured from a legal source that is the holder of a Class III Wildlife Breeder Permit with movement-qualified status; that the applicant will confine the wildlife in facilities that meet the standards specified in 3 CSR 10-9.220; and that the applicant will prevent all other hoofed wildlife from becoming part of the enterprise. Any person applying for a Class III Wildlife Breeder Permit shall complete an application involving an on-site inspection by a conservation agent of the area prior to and following construction activities to determine that all provisions of this rule are met before a permit is issued.

(4) The holder of a Class III Wildlife Breeder Permit may not hunt its stock but may kill animals within its herd for purposes of herd management only with written authorization from a conservation agent.

(5) The holder of a Class III Wildlife Breeder Permit shall report escaped or otherwise missing animals or the entry of any free-ranging animals immediately to a conservation agent.

(6) Animal identification requirements for Class III wildlife.

(A) All permitted Class III wildlife must be identified with two (2) unique animal identification numbers for each animal. One (1) of the animal identifications must be a United States Department of Agriculture-approved animal identification numbering system that uniquely identifies individual animals. The second animal identification must be a dangle farm tag that is unique for the individual animal within the herd and linked to the same animal and herd. The unique animal identification number may be used on two (2) separate identification devices on the same animal to fulfill the identification requirements.

(B) Natural additions to the herd must be identified by March 31 each year. At least one (1) of the animal identification devices must be visible or readable from a distance during herd inventories.

(C) Removal of official identification devices is prohibited, unless otherwise approved by the state wildlife veterinarian.

(7) Testing requirements for Class III wildlife.

(A) For purposes of this section, an eligible mortality means any mortality of a cervid at least twelve (12) months of age. The permit holder must test all eligible mortalities for Chronic Wasting Disease (CWD), a transmissible spongiform encephalopathy. Samples must be collected by an accredited veterinarian or department-certified collector. Samples must be submitted to a diagnostic laboratory approved by the United States Department of Agriculture (USDA) for CWD testing within thirty (30) days of death. For purposes of this section, an ante-mortem CWD test is not valid unless it is performed by an accredited veterinarian on retropharyngeal lymph node, rectal mucosa, or tonsillar tissue with at least six (6) lymphoid follicles submitted within thirty (30) days of collection on an animal that is at least eighteen (18) months of age and has not been a source of ante-mortem testing within the prior twenty-four (24) months. The department reserves the right to require additional sampling and testing during disease investigations or morbidity/mortality events.

(B) At least eighty percent (80%) of samples submitted during the permit year must produce valid results by the diagnostic laboratory.

To be considered a sample that produced a valid result, the sample must have been suitable, testable, and not rejected for any other reason. If less than eighty percent (80%) of samples are valid, then the permit holder must provide sufficient replacement samples to achieve this requirement. Replacement samples may consist of either post-mortem sample(s) at a one to one (1:1) ratio taken from other animal(s) of similar age and time in the facility, if possible; or ante-mortem samples at a three to one (3:1) ratio taken from other animal(s) of similar age and time in the facility, if possible; or valid post-mortem sample results obtained from a licensed big game hunting preserve for any cervid that can be traced to the Class III permit holder's facility within the past twelve (12) months.

(C) Class III wildlife breeders possessing ten (10) or fewer cervids on March 31 for two (2) consecutive years shall submit a minimum of at least one valid CWD sample from an eligible mortality for testing by the end of the second permit year. Class III wildlife breeders possessing more than ten (10) cervids on March 31 of any year must submit a minimum number of valid CWD sample(s) equaling the number of cervids on March 31 multiplied by two and five tenths percent (2.5%), with the result rounded up, for the permit year. If valid samples submitted during the permit year do not meet the minimum requirement, valid replacement samples shall be provided. If needed to achieve the minimum requirement, replacement samples may consist of either post-mortem sample(s) at a one to one (1:1) ratio taken from other animal(s) of similar age and time in the facility, if possible; or ante-mortem samples at a three to one (3:1) ratio taken from other animal(s) of similar age and time in the facility, if possible; or valid post-mortem sample results obtained from a licensed big game hunting preserve for any cervid that can be traced to the Class III permit holder's facility within the past twelve (12) months. Permit holders with five (5) or fewer animals that do not meet this minimum requirement shall lose their movement-qualified status, but shall not have their permit suspended or revoked solely for noncompliance with this requirement.

(D) Samples in which the infectious CWD prion is detected using immunohistochemistry (IHC) or is confirmed at the USDA National Veterinary Services Laboratory will be considered a CWD positive. Any facility with a positive sample will immediately be quarantined by the state wildlife veterinarian, and no Movement Certificates allowing movement into or out of the facility will be issued except as authorized by the state wildlife veterinarian in accordance with an approved herd disease response plan. Additionally, any facility that is or has been in possession of a cervid that was in a CWD positive facility shall be quarantined, and no Movement Certificates allowing movement into or out of the facility will be issued until it is determined that the facility is not epidemiologically linked to the CWD positive cervid, or further testing determines that the suspect cervid is not a confirmed positive.

(E) In the event of a mass casualty/death event, the director of the department may exempt the holder of a Class III wildlife breeder permit from the CWD testing requirements. For an exemption to be granted, the following conditions apply:

1. All mass casualty/mortality event exemption requests must originate from an accredited veterinarian, be submitted in writing to the state wildlife veterinarian, and accompanied by appropriate confirmatory laboratory tests; and

2. The department will have access to collect and submit disease samples from all known cases of mortality for cervids associated with the mass casualty/mortality event. The Class III wildlife breeder must take reasonable steps to ensure that the carcasses and/or heads are sufficiently preserved in order to allow disease samples to be taken.

(F) The holder of a Class III Wildlife Breeder Permit must ensure that all CWD test results required by this section shall be submitted to the state wildlife veterinarian by the USDA-approved diagnostic laboratory within seven (7) days of completion of testing.

(8) In the event of confirmed positive results from a Chronic Wasting

Disease test, the permit holder shall comply with a herd disease response plan approved by the department. The plan may include, but not be limited to, quarantine requirements, testing requirements, partial or total depopulation, premises cleaning and disinfection, additional fencing requirements, and restocking guidelines. Failure to comply with an approved herd disease response plan may result in the suspension or revocation of permit privileges.

(9) All other provisions of this chapter shall apply, including confinement standards as specified in 3 CSR 10-9.220.

(10) Within thirty (30) days from the revocation or expiration of a Class III Wildlife Breeder Permit for any reason and prior to removing any fencing, the permit holder must remove all animals from the premises prior to removing any fencing either by depopulation with approval by an agent of the department, transfer to another Class III permit holder, or transfer to a licensed big game hunting preserve. Facilities with a CWD positive within the past five (5) years must depopulate upon revocation or expiration of their permit.

(11) New permits for Class III wildlife breeding facilities for white-tailed deer, white-tailed deer hybrids, mule deer, or mule deer hybrids will not be issued for a period of five (5) years within twenty-five (25) miles of a location where Chronic Wasting Disease-positive animal(s) have been confirmed by the department; except, new permits may be issued during this time period for the existing location of a Class III wildlife breeding facility with a valid permit.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Jan. 22, 2021.

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 databases and online platform system.

PRIVATE COST: This proposed rule will cost private entities up to an estimated aggregate range of nine hundred dollars (\$900) to eight thousand one hundred dollars (\$8,100) every two (2) years for the life of the rule.

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 ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
Division: 10 Conservation Commission
Chapter: 9 Confined Wildlife: Privileges, Permits, Standards
Type of Rulemaking: Proposed Rule
Rule Number and Name: 3 CSR 10-9.354 Privileges of Class III Wildlife Breeders

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 database structure and/or online forms to create and administer movement certificates. No additional costs associated with this change are anticipated for the life of the rule.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
Division: 10 Conservation Commission
Chapter: 9 Confined Wildlife: Privileges, Permits, Standards
Type of Rulemaking: Proposed Rule
Rule Number and Name: 3 CSR 10-9.354 Privileges of Class III Wildlife Breeders

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
12	Number of permitted individuals holding 6-10 deer	Range of estimated cost incurred every two years: \$900-\$8,100

III. WORKSHEET

Total estimate for post-mortem cost for test every two-years:

12 (Number of permitted individuals that hold 6-10 deer) X \$75 (estimated cost for sampling) = \$900

Total estimate for ante-mortem for test every two-years:

12 (Number of permitted individuals that hold 6-10 deer) X \$675 [3 x \$225] (estimated cost for sampling) = \$8,100

IV. ASSUMPTIONS

Those individuals permitted to hold 5 or less animals may choose to not conduct the minimum sampling required for chronic wasting disease and retain non-movement qualified status indefinitely. We assume those individuals permitted to hold more than 10 animals will be able to meet the required minimum by natural deaths within the facility or by providing replacement samples from animals sent to a Big Game Hunting Preserve. As a result, those permitted individuals would not incur any additional cost.

Those individuals permitted to hold 6-10 animals that are required to submit a minimum of one sample every two years, who did not submit samples in the past because of reporting no deaths, may incur an added cost for the required minimum sample of at least 1 post mortem or 3 ante-mortem samples. They may avoid this added cost by providing one sample from a deer

that went to a big game hunting preserve. We provide an estimated range utilizing cost from all permitted individuals providing post-mortem testing to all providing ante-mortem tests. Based upon information from the state wildlife veterinarian, we estimate a post-mortem CWD sample would be \$75 and an ante-mortem test would be \$225. As of November 2020, there are 12 permitted individuals holding 6-10 deer.

The value of the deer taken as a replacement sample for a post-mortem test was not included because a post-mortem test was not required to meet the minimum sample requirement. If a permit holder did not have a deer die in the facility for two years, then they would have the alternative options of a ante-mortem samples or obtaining a sample for a deer in a big game hunting preserve that could be traced back to the breeding operation.

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

PROPOSED AMENDMENT

3 CSR 10-9.359 Class I and Class II Wildlife Breeder: Records Required. The commission proposes to remove section (2) of this rule, reformat the rule by removing the reference to section (1), and amend the newly formatted rule.

PURPOSE: This amendment removes provisions related to cervids and moves them to provisions for Class III wildlife breeder inventory records in 3 CSR 10-9.360. It also clarifies the expectation that all records must be complete and accurate.

[(1)] Each Class I and Class II wildlife breeder[, *except those possessing white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids,*] shall maintain a **complete, accurate, and current** record, by date, of all transactions showing the place of origin and the numbers and species of wildlife which were possessed, propagated, bought, sold, consigned, brokered, transported, shipped, given away, used, or which have died, on forms provided 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. These records and applicable state and federal animal health records and permits for each animal shall be maintained on the premises of the wildlife breeder and shall be subject to inspection by an authorized agent of the department at any reasonable time.

[(2)] *Each Class I and Class II wildlife breeder possessing white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids will complete an annual physical herd inventory in the presence of an accredited veterinarian. Herd inventory records must be signed by the attending accredited veterinarian and must include the following for each animal: permanent physical identification, species, date of birth, gender, date of acquisition, complete address of source, complete address and name of current and previous owner, date of removal, destination of any animal removed, mortality date, cause of death (if known), official Chronic Wasting Disease test results for all white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids six (6) months of age or older at time of death, and method and location of carcass disposal. These herd inventory records must be maintained to provide accountability for all purchases, sales, births, and mortality. These records and applicable state and federal animal health and movement records and permits for each animal shall be maintained on the premises of the wildlife breeder and shall be subject to inspection by an authorized agent of the department at any reasonable time for a period of at least five (5) years. All animals over six (6) months of age must be identified with an official ear tag or other United States Department of Agriculture approved identification device.*

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo [2000] 2016. This rule was previously filed as 3 CSR 10-10.753. This version of rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards

PROPOSED RULE

3 CSR 10-9.360 Class III Wildlife Breeder: Inventory and Records Required

PURPOSE: This rule requires all Class III wildlife breeders to conduct and maintain records associated with herd inventory that will facilitate the tracking of movement, disease, and deaths for each facility.

(1) Each Class III wildlife breeder will complete an annual physical herd inventory in the presence of an accredited veterinarian in which all animals within the herd are visually inspected. Individual identification must be verified and recorded on a herd inventory signed by the accredited veterinarian. Any animal in which identification cannot be visually inspected will be restrained by the permit holder. An inventory of all animals shall be maintained on a form or database provided by the department, kept accurate and up to date, and reconciled by March 31 each year. 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. Any animal not accounted for on the herd inventory by March 31 each year shall constitute an eligible mortality required to be tested for CWD under 3 CSR 10-9.354, and a valid replacement sample must be provided.

(2) Movement certificates must be retained in paper form or on a database provided by the department.

(3) Herd inventory records must be complete and accurate containing the following for each animal: permanent physical identification, species, date of birth, gender, date of acquisition, complete address of source, complete address and name of current and previous owner, date of removal, destination of any animal removed, copies of all movement certificates (if department database is not utilized) mortality date, cause of death (if known), official Chronic Wasting Disease test results for all animals twelve (12) months of age or older at time of death, and method and location of carcass disposal. These herd inventory records must be maintained to provide accountability for all purchases, sales, movement, births, and mortality. These records shall be maintained on the premises of the wildlife breeder for a period of at least five (5) years or on a department-provided database and shall be subject to inspection and copying by an authorized agent of the department at any reasonable time. Refusal to allow access to or copying of inventory records shall constitute sufficient cause for the suspension or revocation of the permit.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards**

PROPOSED RULE

3 CSR 10-9.370 Wildlife Exhibitor Permit

PURPOSE: This rule establishes a permit to maintain and operate a wildlife exhibit containing Class I wildlife, Class II wildlife, and native fish other than those listed on the Approved Aquatic Species List, except, coyotes, foxes, raccoons, skunks, native bats, and prohibited species.

(1) To maintain and operate a wildlife exhibit in accordance with 3 CSR 10-9.371 holding Class I wildlife as defined in 3 CSR 10-9.230, Class II wildlife as defined in 3 CSR 10-9.240, and native fish not listed on the Approved Aquatic Species List in 3 CSR 10-9.110(3)(H), except coyotes, foxes, raccoons, skunks, native bat species, and prohibited species as defined in 3 CSR 10-4.117. All wildlife must be obtained in accordance with federal regulations, if applicable, and must originate from a legal source other than the wild stock of this state.

(2) Any person applying for a Wildlife Exhibitor Permit shall complete an application involving on-site inspections of the exhibit facilities prior to and following construction activities by a conservation agent to determine that all provisions of this rule and 3 CSR 10-9.371 are met before a permit is issued. Fee: one thousand dollars (\$1,000).

(3) The following exemptions to the Wildlife Exhibitor Permit requirements of this chapter shall apply:

(A) A Wildlife Exhibitor Permit shall not be required for wildlife legally held by publicly owned zoos, or Association of Zoos and Aquariums (AZA) accredited not-for-profit facilities; however, such wildlife may not be held for personal use;

(B) A Wildlife Exhibitor Permit shall not be required of individuals holding migratory birds under valid federal authorization. All captive-reared migratory waterfowl must be confined and marked as prescribed in 3 CSR 10-9.220.

NOTE: For federal regulations on migratory waterfowl, see Title 50, Parts 20 and 21 of the *Code of Federal Regulations*;

(C) A Wildlife Exhibitor Permit shall not be required for the propagation, sale, or display of birds of prey by persons holding a valid federal permit; provided that these birds may be used to take or attempt to take wildlife only by persons holding a valid falconry permit; and

(D) Wolf-hybrids are specifically exempted from the requirements of this rule, 3 CSR 10-9.371, and 3 CSR 10-9.372.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section

252.040, RSMo 2016. Original rule filed Jan. 22, 2021.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions two thousand five hundred dollars (\$2,500) annually.

PRIVATE COST: This proposed rule will cost private entities five thousand dollars (\$5,000) annually.

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:** 3 – Department of Conservation

Division Title: 10 Conservation Commission

Chapter Title: 9—Wildlife Code: Confined Wildlife, Privileges, Permits, Standards

Rule Number and Name:	3 CSR 10-9.370 Wildlife Exhibitor Permit
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Conservation	\$2,500 in Conservation Agent time to initially inspect and approve facilities and permits for Wildlife Exhibitors

III. WORKSHEET

5 (Estimated number of facilities who will apply to obtain a permit).

X \$500 (Average cost for Conservation Agent time per initial inspection) = \$2,500 to initially inspect and approve facilities and permits for Wildlife Exhibitors.

5 (Estimated number of permit holders with facilities requiring an inspection).

\$25.00 (Average hourly rate for Conservation Agents) X 20 (Estimated number of hours required to inspect and approve confinement facility for each permit holder) = \$500 (Average Cost for Conservation Agent time to inspect and approve a facility).

IV. ASSUMPTIONS

The Department estimates there are approximately 5 facilities currently exhibiting wildlife in Missouri under a Class I or Class II wildlife breeder permit that would be required to obtain a Wildlife Exhibitor Permit if the rule goes into effect. The estimated cost associated with this rule assumes no increase or decrease in the number of facilities requiring an inspection, each facility passes inspection with one site-visit, and no change in the average hourly wage of Conservation Agents.

FISCAL NOTE

PRIVATE COST

I. Department Title: 3 - Department of Conservation

Division Title: 10 – Conservation Commission

Chapter Title: 9 - Wildlife Code: Confined Wildlife, Privileges, Permits, Standards

Rule Number and Title:	3 CSR 10-9.370 Wildlife Exhibitor Permit
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
5 facilities requiring a Wildlife Exhibitor permit	Wildlife Exhibits and Attractions	\$5,000 annually

III. WORKSHEET

5 (Estimated number of facilities requiring a Wildlife Exhibitor Permit) X \$1,000 (Cost of the Wildlife Exhibitor Permit) = \$5,000 annually.

II. ASSUMPTIONS

The Department estimates there are approximately 5 facilities currently exhibiting wildlife in Missouri under a Class I or Class II wildlife breeder permit that would be required to obtain a Wildlife Exhibitor Permit if the rule goes into effect. The estimated cost associated with this rule assume no increase or decrease in the number of facilities requiring a Wildlife Exhibitor Permit.

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

PROPOSED RULE

3 CSR 10-9.371 Wildlife Exhibitor Privileges

PURPOSE: This rule establishes the privileges and requirements for wildlife exhibitors.

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

(1) Subject to federal regulations, wildlife specified in 3 CSR 10-9.370(1) may be held in confinement and exhibited by the holder of a Wildlife Exhibitor Permit only at a specific location indicated on the permit, except as otherwise provided in section (6) of this rule. Applicants for an exhibitor permit to hold Class II wildlife must qualify by passing with a score of at least eighty percent (80%) on a written examination provided by the department.

(2) Such wildlife may not be propagated, but may be bought, imported, exported, given away, transferred, transported, or shipped; provided, the provisions of 3 CSR 10-9.223 are followed; and that wildlife may be transferred or given away only to the holder of the appropriate permit, where required.

(3) Wildlife that will become a part of the enterprise shall be limited to the species specified on the wildlife exhibitor's permit. A permit may be granted after satisfactory evidence by the applicant that all fish and wildlife held as a part of the enterprise will be secured from a legal source other than the wild stock of this state and their descendants; that the applicant will confine the wildlife in humane and sanitary facilities that meet standards specified in 3 CSR 10-9.220; that the applicant will confine fish and aquatic or semi-aquatic invertebrates in humane and sanitary facilities that meet the standards specified for closed systems defined in 3 CSR 10-9.110(3)(G)6.; and that the applicant will prevent the wild stock of this state from becoming a part of the enterprise.

(4) Wildlife exhibit facilities shall become accredited by the Association of Zoos and Aquariums (AZA) within three (3) years of the issuance of the initial Wildlife Exhibitor Permit for the facility, regardless of any changes in ownership or permittee. If there is a change of ownership or permittee prior to the initial accreditation of a wildlife exhibit facility, the director may, but is not required to, authorize a period of no more than (2) years for the new permittee to attain AZA accreditation. If an event occurs that requires a wildlife exhibit facility that is accredited by the AZA to reprocess for accreditation, the wildlife exhibit facility shall become accredited by the AZA within two (2) years after the event that required the facility to reprocess for accreditation, regardless of any subsequent changes in ownership or permittee. The director may authorize a one- (1-) time extension to the AZA accreditation requirement for a period of one (1) year, provided the permittee is in process of obtaining AZA accreditation. After the permittee's initial accreditation by the AZA, the permittee shall continue to maintain AZA accreditation of the wildlife exhibit facility. Except as otherwise provided in this section, failure to obtain or maintain AZA accreditation shall be sufficient cause for the department to revoke the current year's wildlife

exhibitor permit and deny renewal of the permit for the following year.

(5) Cities, towns, and counties may establish ordinances further restricting or prohibiting ownership of Class II wildlife, with approval of the department. In instances where prohibitions apply, no Wildlife Exhibitor Permit will be issued by the department. Persons possessing Class II wildlife must comply with all requirements of section 578.023, RSMo.

(6) Reptiles and amphibians may be exhibited at locations other than those listed on the permit, provided mobile temporary exhibit confinement standards as specified in 3 CSR 10-9.220 shall apply.

(7) Any shipment, transfer, or gift of wildlife by a wildlife exhibitor shall be accompanied by a written statement giving the wildlife exhibitor permit number and showing the number of each species, the species and unique identification number for each animal, if applicable, and the name and address of the recipient. No wildlife of any kind may be liberated to the wild.

(8) Wildlife held under the provisions of this rule must be confined in humane and sanitary facilities that meet standards specified in 3 CSR 10-9.220 and the standards specified for closed systems defined in 3 CSR 10-9.110(3)(G)6. for fish and aquatic or semi-aquatic invertebrates. Each cage, tank, or enclosure shall be labeled, correctly identifying the animal(s) held in the cage, tank, or enclosure by common and scientific name.

(9) If the mortality rates of any species of wildlife held in accordance with this rule are deemed excessive by the state wildlife veterinarian, it shall be sufficient cause for the department to remove the authorization to hold that species from the permittee's Wildlife Exhibitor Permit. Authorization to hold such wildlife may be denied until the permittee demonstrates to the state wildlife veterinarian that the cause of the excessive mortality has been corrected.

(10) The requirements of 3 CSR 10-9.353(7) shall apply to all black bears and black bear-hybrids, mountain lions and mountain lion-hybrids, and wolves held under a Wildlife Exhibitor Permit, and all other animals, except fish less than ten (10) inches in total length, shall be permanently tagged or marked within five (5) days of acquisition with a unique identification number that identifies each individual animal. The department may require a blood or tissue sample sufficient for DNA analysis, registration, and identification of an individual animal upon the request of a conservation agent. The tags or marks used to identify individual animals shall not be reused on other animals. Removal of identification tags or marks is prohibited, unless otherwise approved by a conservation agent.

(11) The holder of a Wildlife Exhibitor Permit shall report the acquisition, death, transfer, or gift of any animal belonging to a species of fish or wildlife listed in the current *Missouri Species and Communities of Conservation Concern Checklist* booklet, Revised January 2020, which is hereby incorporated in this Code by reference, that are listed with a State or Federal status of Endangered or Threatened, to a conservation agent within three (3) days of the acquisition, death, transfer, or gift of the animal. This report shall include the specific disposition of the animal, including the name, address, and permit number if applicable, of the person the animal was given or transferred to. This booklet is published annually in January 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. This rule does not incorporate any subsequent amendments or additions to the Checklist.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section

252.040, RSMo 2016. Original rule filed Jan. 22, 2021.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions two thousand five hundred dollars (\$2,500) annually.

PRIVATE COST: This proposed rule will cost private entities at least thirty-two thousand five hundred dollars (\$32,500) for initial AZA Accreditation Fees, four thousand five hundred dollars (\$4,500) every five (5) years for each permittee for AZA Accreditation renewals, and indeterminable costs associated with providing staffing and facilities required to obtain and maintain AZA Accreditation 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: 3 – Department of Conservation

Division Title: 10 Conservation Commission

Chapter Title: 9—Wildlife Code: Confined Wildlife, Privileges, Permits, Standards

Rule Number and Name:	3 CSR 10-9.371 Wildlife Exhibitor Permit Privileges
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Conservation	\$2,500 in Conservation Agent time to inspect 5 wildlife exhibits per year.

III. WORKSHEET

5 (Estimated number of facilities who will apply to obtain a permit) X \$500 (Average cost for Conservation Agent time for routine inspections) = \$2,500 in conservation agent time annually to conduct routine inspections of wildlife exhibits.

5 (Estimated number of permit holders with facilities requiring an inspection).

\$25.00 (Average hourly rate for Conservation Agents) X 8 (Estimated number of hours required to conduct a routine inspection for each permit holder) = \$500 (Average Cost for Conservation Agent time to conduct a routine inspection of a facility).

IV. ASSUMPTIONS

The Department estimates there are approximately 5 facilities currently exhibiting wildlife in Missouri under a Class I or Class II wildlife breeder permit that would be required to obtain a Wildlife Exhibitor Permit if the rule goes into effect. The estimated cost associated with this rule assume no increase or decrease in the number of facilities requiring an inspection, each facility has a one routine inspection per year, and no change in the average hourly wage of Conservation Agents.

**FISCAL NOTE
PRIVATE COST**

I. Department Title: 3 - Department of Conservation

Division Title: 10 – Conservation Commission

Chapter Title: 9 - Wildlife Code: Confined Wildlife, Privileges, Permits, Standards

Rule Number and Title:	3 CSR 10-9.371 Wildlife Exhibitor Permit Privileges
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
5 facilities requiring a Wildlife Exhibitor permit	Wildlife Exhibits and Attractions	\$32,500 for fees and expenses for initial AZA accreditation, \$4,500 every 5 years for each facility for AZA accreditation renewals, and indeterminable costs associated with providing the staffing and facilities required to obtain and maintain AZA Accreditation

III. WORKSHEET

\$32,500 (Fees and expenses for initial AZA accreditation) + \$5,000 every 5 years for each facility (Renewals of AZA accreditation) + indeterminable costs associated with providing the staffing and facilities required to obtain and maintain AZA Accreditation = Total estimated aggregate costs for private entities.

5 (Estimated number of facilities requiring a Wildlife Exhibitor Permit) X \$6,500 (filing fee and expense deposit for initial AZA accreditation) = \$32,500 Fees and expenses for initial AZA accreditation.

\$4,500 (filing fee and expense deposit for renewal of AZA accreditation for each facility every 5 years).

The cost to construct wildlife exhibit facilities and employ required staff to obtain and maintain AZA accreditation is indeterminable because of unknown variables related to the size of facilities, the species the permittee desires to exhibit, whether or not the facilities and staff already exist or if staffing and facilities must be acquired and/or modified, and the geographic location. It is anticipated that exhibitor permits will be issued for exhibits that are both large and small, for different types of animals, and with widely varying costs required for permittees to meet AZA accreditation standards for staffing and facilities.

II. ASSUMPTIONS

The Department estimates there are approximately 5 facilities currently exhibiting wildlife in Missouri under a Class I or Class II wildlife breeder permit that would be required to obtain a Wildlife Exhibitor Permit if the rule goes into effect. The estimated cost associated with this rule assume no increase or decrease in the number of facilities requiring a Wildlife Exhibitor Permit, mid-cycle accreditation inspections are not required, and costs will not increase over time.

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

PROPOSED RULE

3 CSR 10-9.372 Wildlife Exhibitor Permit: Records Required

PURPOSE: This rule establishes the record keeping requirements for the holder of a Wildlife Exhibitor Permit.

(1) Each permit holder shall maintain an accurate permanent record, by date, of all transactions involving each animal held, acquired, imported, exported, transferred, given away, disposed of, or which have died, including the species and quantity, individual identification number of each animal if applicable, place of origin, the name, address, and permit number, where required, of each seller or transferee on a form approved by the department. The permit holder shall also establish and maintain a system of inventory in a format approved by the department that includes an up-to-date and accurate list of all wildlife currently held, including the species and quantity, individual identification number of each animal if applicable, and the location of all reptiles and amphibians held in confinement at locations other than the location indicated on the permit.

(2) These records and applicable state and federal animal health records and permits for each animal, including documentation for each animal showing it was obtained from a legal source other than the wild stock of the state, shall be maintained on the premises of the exhibit and shall be subject to inspection by a conservation agent at any reasonable time.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards**

PROPOSED AMENDMENT

3 CSR 10-9.442 Falconry. The commission proposes to add a new subsection (7)(E) and re-letter subsequent subsections.

PURPOSE: This amendment will allow master falconers to take and possess wild passage peregrine falcons for use in falconry in accordance with season dates and the annual allocation established by the United States Fish and Wildlife Service for Missouri.

(7) Raptors may be taken from the wild only as follows:
(D) Only American kestrels and great horned owls may be taken when over one (1)- year old (haggard). Birds not listed in subsection (7)(B) of this rule may also be taken when over one (1) year old, but

only when taken under a depredation or special purpose permit by a general or master falconer. A master falconer, in any twelve- (12-) month period, may take up to two (2) golden eagles from the wild only in a livestock depredation area (declared by the United States Department of Agriculture (USDA) Wildlife Services or by the governor) during the time the depredation area is in effect; *[and]*

(E) Resident master falconers may take passage peregrine falcons from September 20 through October 20 in accordance with the annual allocation established by the United States Fish and Wildlife Service for the take of passage peregrine falcons in Missouri. Each resident master falconer may take one (1) passage peregrine falcon from the wild annually, but only in accordance with the number of raptors that may be taken by a permittee from the wild during the twelve- (12-) month reporting period. The season will remain open during the prescribed season dates or until the annual allocation of passage peregrine falcons have been captured. Falconers must contact the falconry program coordinator prior to each capture attempt to determine if the annual allocation has been reached, and falconers taking a peregrine falcon must contact the falconry coordinator to report the capture by 10:00 p.m. on the day of capture. Falconers capturing a peregrine after the allocation has been met must immediately release the bird upon notification by the falconry program coordinator that their capture was in excess of the annual allocation. Banded peregrine falcons may not be taken and must be released immediately at the location of capture. Nonresident master falconers may take passage peregrine falcons in accordance with this subsection and subsection (7)(F) of this rule; provided the director may authorize nonresident falconers to take no more than fifty percent (50%) of the annual allocation of passage peregrine falcons; and

[(E)](F) Nonresidents who have valid falconry permits, with written authorization of the director, may take from the wild and, when banded, possess and transport raptors under conditions and at those places and times as the director may specify; providing, that this person shall possess a valid Missouri nonresident hunting permit. (Note: Persons transporting raptors so taken into another state also may need permission for the transfer from the other state.)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-7.442. Original rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges,
Permits, Standards**

PROPOSED AMENDMENT

3 CSR 10-9.560 Licensed Hunting Preserve Permit. The commission proposes to amend section (2).

PURPOSE: This amendment establishes a permit for licensed shooting areas. The proposed amendments allow Licensed Hunting Preserve Permit holders to designate an authorized representative to act on the permit holder's behalf and changes the permit term from three (3) years to one (1) year.

(2) Any person applying to establish a licensed hunting preserve shall complete an application involving on-site inspections of the area prior to and following construction activities by an agent of the department to determine that all provisions of this rule and 3 CSR 10-9.565 are met before a permit is issued. **The Licensed Hunting Preserve Permit holder may designate an authorized representative on the permit to act on the permit holder's behalf, but the Licensed Hunting Preserve Permit holder shall be responsible for compliance with the permit requirements. If the authorized representative changes, the licensed hunting preserve permit holder shall provide updated information to the department.** Fees:

(B) Big Game Hunting
Preserve \$[7]250 valid for [three (3)] one (1) year[s]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo [2000] 2016. This rule previously filed as 3 CSR 10-10.760. This version of rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 22, 2021.

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 9—Wildlife Code: Confined Wildlife, Privileges, Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.565 Licensed Hunting Preserve: Privileges. The commission is amending section (1) and adding new paragraphs (1)(B)4., (1)(B)6., (1)(B)7., (1)(B)8., and (1)(B)14., renumbering the remaining paragraphs, and amending the new paragraphs (1)(B)5. and (1)(B)9. through (1)(B)13.

PURPOSE: This amendment sets out the privileges and requirements for licensed shooting areas. The amendment creates a hunt-qualified status that allows permittees to conduct hunts if they meet established requirements, and criteria for regaining hunt-qualified status, if lost. The amendment requires hunting preserves exercising the privileges of a breeding facility with respect to Class III permitted cervids to obtain a Class III Wildlife Breeder Permit. The amendments reduce the burden of current CWD testing requirements by allowing department-certified collectors to collect samples and by creating a tiered system of disease surveillance based upon past compliance and disease risk. Replacement samples are required, if necessary, to meet the testing requirement. The amendment removes the exemption for mass mortalities since the testing requirements have been reduced.

The amendment clarifies acceptable methods of animal identification and requires permit holders to authorize laboratories to submit CWD test results directly to the state wildlife veterinarian. In the event of a confirmed status, the amendment clarifies how epidemiologically linked herds will be treated. The amendment creates an obligation by the licensed big game hunting preserve to maintain documentation from all cervid breeders providing animals to the facility that the animals were born within the state of Missouri. The amendment also clarifies that all Class III permitted wildlife must originate from a Class III wildlife breeding facility and requires that all other cervids must originate from a facility enrolled in a state-sponsored CWD herd certification program. Finally, the amendment clarifies procedures when a permit expires or is revoked with respect to animals present in the facility.

The above changes are necessary to clarify existing regulations, practices, and expectations. The hunt-qualified status is necessary to ensure facilities are complying with applicable regulations, while providing an alternative to criminal enforcement. Changes to the CWD testing requirements will result in more valid samples being submitted for testing, while redistributing the burden of testing between big game hunting preserves and breeding facilities. The department anticipates getting better disease surveillance from the proposed changes. Changes that required CWD test results be submitted directly to the state wildlife veterinarian are necessary to ensure the department receives all test results and to confirm required samples are submitted.

(1) Licensed hunting preserves are subject to inspection by an agent of the department at any reasonable time. Animal health standards and movement activities shall comply with all state and federal regulations. Any person holding a licensed hunting preserve permit may release on his/her licensed hunting preserve only legally obtained and captive-reared: pheasants, exotic partridges, quail, mallard ducks, and ungulates (hoofed animals) **specifically authorized by the Approved Confined Wildlife Species List in 3 CSR 10-9.105(7) for game bird hunting preserves and big game hunting preserves** for [shooting] hunting throughout the year, under the following conditions:

(B) Big Game Hunting Preserve.

1. A big game hunting preserve for ungulates shall be a fenced single body of land, not dissected by public roads, and not less than three hundred twenty (320) acres and no more than three thousand two hundred (3,200) acres in size. The hunting preserve shall not be cross-fenced into portions of less than three hundred twenty (320) acres. The hunting preserve shall be fenced so as to enclose and contain all released game and exclude all hoofed wildlife of the state from becoming a part of the enterprise and posted with signs specified by the department. Fence requirements shall meet standards specified in 3 CSR 10-9.220. Fencing for hogs shall be constructed of twelve (12) gauge woven wire, at least five feet (5') high, and topped with one (1) strand of electrified wire. An additional two feet (2') of such fencing shall be buried and angled underground toward the enclosure interior. A fence of equivalent or greater strength and design to prevent the escape of hogs may be substituted with written application and approval by an agent of the department.

2. [The permittee may exercise privileges provided in 3 CSR 10-9.353 only for species held within b]Breeding enclosure(s) contained within or directly adjacent to the big game hunting preserve **must obtain a separate Class III Wildlife Breeder Permit for those species (including their hybrids) listed on the Approved Confined Wildlife Species List in 3 CSR 10-9.105 for Class III wildlife breeders.** [Any such breeding enclosure(s) shall meet standards specified in 3 CSR 10-9.220. Breeding enclosures may be separated from the hunting preserve by a public road, but must be directly adjacent. Other breeding enclosures not contained within or directly adjacent to the hunting preserve are not covered under the privileges of this rule.] **Any animal entering a big game hunting facility may not reenter**

a breeding facility. All cervids entering a big game hunting preserve must comply with the identification requirements contained in 3 CSR 10-9.354(6). Any natural additions must meet one of these identification requirements upon harvest or death for record-keeping purposes.

3. Any person taking or hunting ungulates on a big game hunting preserve shall have in his/her possession a valid licensed hunting preserve hunting permit. The permittee shall attach to the leg of each ungulate taken on the hunting preserve a locking leg seal furnished by the department, for which the permittee shall pay ten dollars (\$10) per one hundred (100) seals. Any packaged or processed meat shall be labeled with the licensed hunting preserve permit number.

4. The holder of a Big Game Hunting Preserve Permit may only receive animals and conduct hunts if they maintain hunt qualified status. Big Game Hunting Preserve Permit holders will attain and maintain hunt qualified status if they maintain inventory records (including identification requirements) as required in this chapter, submit Chronic Wasting Disease samples as required in this chapter, and maintain all fences as required in this chapter. A Big Game Hunting Preserve Permit holder will lose hunt qualified status if, after issuance of a notice of discrepancy by the department indicating violations of any of the requirements of this paragraph, the permit holder fails to correct the deficiency within thirty (30) days, or longer if approved by a conservation agent pursuant to a corrective action plan. Hunt-qualified status will be reinstated when the permit holder receives notice from the department that the discrepancy has been corrected. Receiving animals or conducting hunts in violation of this paragraph or maintaining non-hunt qualified status for ninety (90) consecutive days or more shall be sufficient cause for permit suspension or revocation.

[4.]5. [Except as provided in this section, t]The holder of a Big Game Hunting Preserve Permit [shall have] must test mortalities of male cervids over twelve (12) months of age for Chronic Wasting Disease (CWD), a transmissible spongiform encephalopathy as provided in this rule. Samples must be collected by an accredited veterinarian [collect and submit samples from all known cases of mortality for cervids over six (6) months of age to a United States Department of Agriculture approved laboratory for Chronic Wasting Disease testing.] or department-certified collector. Samples must be submitted to a diagnostic laboratory approved by the United States Department of Agriculture (USDA) for CWD testing within thirty (30) days of death. The department reserves the right to require additional sampling and testing during disease investigations or morbidity/mortality events. Animal health standards and movement activities shall comply with all state and federal regulations.

[A. In the event of a mass casualty/mortality event, the director of the department may exempt the holder of a Big Game Hunting Preserve Permit from the Chronic Wasting Disease testing requirement within this rule. The following conditions apply:

(I) All mass casualty/mortality event exemption requests must originate from an accredited veterinarian and must be verbally reported to a conservation agent, regional protection supervisor, or the state wildlife veterinarian of the department.

(II) The department will have access to collect and submit disease samples from all known cases of mortality for cervids, pertaining to, and in the event of, a mass casualty/mortality event.]

6. For purposes of this section, eligible mortalities mean mortalities of all male cervids at least twelve (12) months of age occurring between April 1 of the previous permit year and March 31 of the current permit year. Any new permit holder or permit holder as of July 1, 2021, that failed to test one hundred percent (100%) of all mortalities during the previous permit year shall have Tier 1 status, and shall test one hundred percent (100%) of

eligible mortalities. Any permit holder as of July 1, 2021, that tested one hundred percent (100%) of all mortalities during the previous permit year or any Tier 1 permit holder that submits the required valid samples of eligible mortalities during the previous year shall have Tier 2 status, and shall test fifty percent (50%) of eligible mortalities.

7. At least eighty percent (80%) of required tests as described in the previous paragraph must produce valid sample results by the diagnostic laboratory. To be considered a sample that produced a valid test result, the sample must have been suitable, testable, and not rejected by the diagnostic laboratory for any other reason. If less than eighty percent (80%) of samples are valid, then the permit holder must provide sufficient samples to achieve the eighty percent (80%) requirement. Replacement samples may consist of either post-mortem samples at a one to one (1:1) ratio, or ante-mortem samples at a three to one (3:1) ratio from other animal(s) of similar age and time in the facility. For purposes of this rule, an ante-mortem CWD test is not valid unless it is performed by an accredited veterinarian on retropharyngeal lymph node, rectal mucosa, or tonsillar tissue with at least six (6) lymphoid follicles submitted within thirty (30) days of collection on an animal that is at least eighteen (18) months of age and has not been source of ante-mortem testing within the prior twenty-four (24) months.

8. Samples in which the infectious CWD prion is detected will be considered CWD-suspect pending confirmation at the USDA National Veterinary Services Laboratory. Any facility with a CWD-suspect or confirmed positive sample will immediately be quarantined by the state wildlife veterinarian, and no movement certificates allowing movement into the facility will be issued except as authorized by the state wildlife veterinarian in accordance with an approved herd disease response plan. Additionally, any facility that is or has been in possession of a deer that was in a CWD-suspect or CWD-confirmed positive facility shall be quarantined, and no movement certificates allowing movement into the facility will be issued until it is determined that the facility is not epidemiologically linked to the CWD suspect or confirmed positive deer or is determined upon further testing that the suspect deer is not a confirmed positive.

[5.]9. Big game hunting preserve permittees shall report escaped animals, and entry of any free-ranging cervids into the facility immediately to a[n agent of the department] conservation agent.

[6.]10. [Confirmed positive results from any disease test for a cervid must be verbally reported by the permit holder to a conservation agent or regional protection supervisor of the department within twenty four (24) hours of receiving the report and provide a copy of the testing report to the state wildlife veterinarian of the department within seventy-two (72) hours.] The holder of a Big Game Hunting Preserve Permit must ensure that all CWD test results required by this section are submitted to the state wildlife veterinarian by the USDA-approved diagnostic laboratory within seven (7) days of completion of testing. In the event of confirmed positive results from a Chronic Wasting Disease test, the permit holder shall comply with a herd disease response plan approved by the department. The plan may include, but not be limited to, quarantine requirements, testing and depopulation, premises cleaning and disinfection, additional fencing requirements, and restocking guidelines. Failure to comply with an approved herd disease response plan may result in the suspension or revocation of permit privileges.

[7.]11. All [ungulates] Class III cervids listed on the Approved Confined Species List in 3 CSR 10-9.105 for Class III wildlife breeders acquired by a holder of a Big Game Hunting Preserve Permit must be individually identified on a [Breeder's Movement Certificate or a Certificate of Veterinary Inspection] Movement Certificate issued by the department. A [Breeder's] Movement Certificate [may] must be completed by the

breeder. *The form must* and list the official identification, age, gender, species, complete address of both the origin and destination, and the complete *[address and name of buyer and seller]* name, address, and permit number of all parties to the transaction. The original form must accompany the shipment and a copy shall be maintained *[by the herd of origin]* for at least five (5) years by the permit holders, unless otherwise documented in a department-provided database. All other cervids and ungulates acquired by a holder of a Big Game Hunting Preserve Permit must be individually identified on a Breeder's Movement Certificate issued by the Missouri Department of Agriculture. A Breeder's Movement Certificate must be completed by the breeder and contain complete and accurate information including the official identification, age, gender, species, complete address of birth, origin, and destination, and complete address and name of buyer and seller. The Breeder's Movement Certificate must accompany the shipment and a copy maintained for at least five (5) years by the permit holder. *[Sources for]* The source of all Class III cervids listed on the Approved Confined Wildlife Species List in 3 CSR 10-9.105 for Class III wildlife breeders must be a Class III breeder facility. The source of all other cervids must be a herd that is enrolled in a United States Department of Agriculture approved Chronic Wasting Disease herd certification program.

[8.]12. New permits for big game hunting preserves will not be issued for a period of five (5) years within twenty-five (25) miles of a location where Chronic Wasting Disease-positive animal(s) have been confirmed by the department; except, new permits may be issued during this time period for the existing location of a big game hunting preserve with a valid permit.

[9.]13. Live cervids imported into the state shall not be held in a licensed big game hunting preserve. Only cervids born inside the state of Missouri may be propagated, held in captivity, and hunted on big game hunting preserves. **Prior to accepting any cervid, the big game hunting preserve must obtain evidence that the cervid was born inside the state of Missouri, such as relevant portions of the breeder's herd certification inventory and movement certificates. The big game hunting preserve shall maintain such documentation for five (5) years and provide to the department upon request.**

14. Within thirty (30) days from the revocation or expiration of a licensed Big Game Hunting Preserve Permit for any reason and prior to the removal of any fencing, the permit holder must remove all animals from the premises either by depopulation with approval by a conservation agent, or transfer to a licensed big game hunting preserve with approval by the state wildlife veterinarian. Facilities with a CWD positive within the past five (5) years must depopulate upon revocation or expiration of their permit.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule previously filed as 3 CSR 10-10.765. Original rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 22, 2021.

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 cost private entities up to an estimated annual aggregate of six hundred fifty dollars (\$650).

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, com-

ments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 3 - Department of Conservation
Division: 10 Conservation Commission
Chapter: 9 Confined Wildlife: Privileges, Permits, Standards
Type of Rulemaking: Proposed Amendment
Rule Number and Name: 3 CSR 10-9.565 Licensed Hunting Preserve: Privileges

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
13	Number individuals needing to purchase a Class 3 Breeder Permit	Estimated annual aggregate: \$650

III. WORKSHEET

Estimated annual aggregate for individuals needing to purchase a Class 3 breeder permit that previously were not required to:

13 (Number of individuals needing to purchase a Class 3 breeder permit) X \$50 (annual cost for class three breeder permit) = \$650

IV. ASSUMPTIONS

Estimate 13 individuals needing to purchase a Class 3 breeder permit that previously were not required to.

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

PROPOSED AMENDMENT

3 CSR 10-9.566 Licensed Hunting Preserve: Records Required.

The commission proposes to amend sections (1) and (2) and remove section (4).

PURPOSE: The proposed amendment clarifies the expectation to keep up to date records on a daily basis and to accommodate an online department-provided database for inventory records in the future.

(1) Big game hunting preserve permittees shall keep a *[permanent record, by date, of] daily log that completely and accurately contains* the number of each species held, acquired, propagated, *[sold,] released, [the number of each species] taken [on the preserve]*, and the full name, address, and permit number (if applicable) of each buyer, seller, shooter, and/or taker, on forms provided by the department **or on a department-provided database**. 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. *[The holder of a] Big Game Hunting Preserve [P]permit holders* must establish and maintain a **complete and accurate** system of inventory for all acquired ungulates that includes the following for each animal: permanent physical identification, species, date of birth, gender, date of acquisition, complete address of source, complete address and name of both the current and previous owner, mortality date, cause of death (if known), official Chronic Wasting Disease test results as required in 3 CSR 10-9.565 (1)(B)/4.15., method and location of carcass disposal, and the numbers from the Licensed Hunting Preserve Permit of the hunter and locking leg seal (if applicable). *[These records and applicable state and federal animal health and movement records and permits for each animal] All applicable state and federal animal health and movement records (including certificates of veterinary inspection), inventory records, breeder inventory records, if applicable, and testing records* shall be maintained on the premises of the licensed big game hunting preserve for at least five (5) years and shall be subject to inspection **and copying** by *a[n authorized agent of the department] conservation agent* at any reasonable time.

(2) Game bird hunting preserve permittees shall keep a **complete, accurate, and permanent** record of the number of each species acquired, propagated, sold, released, the number of each species taken, and the full name and address of the taker.

[(4) Big Game Hunting Preserve Permit holders exercising the privileges provided in 3 CSR 10-9.353 shall also meet record keeping requirements specified in 3 CSR 10-9.359.]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo [2000] 2016. Emergency rule filed March 11, 2002, effective March 21, 2002, expired Sept. 16, 2002. Original rule filed March 11, 2002, effective July 30, 2002. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 22, 2021.

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 10-10.725 Commercial Fishing: Seasons, Methods. The commission proposes to amend section (12) of this rule.

PURPOSE: The proposed amendment reestablishes the commercial fishing seasons, methods, and limits for taking common carp and grass carp in certain streams and establishes restrictions on the use of commercial fishing gear.

(12) Invasive fish, **common carp, and grass carp** that jump from the water on or into a watercraft, or onto land, may be taken and possessed in any number. Invasive fish may not be transported from waters of the state where taken unconfined or in water.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed Aug. 16, 1973, effective Dec. 31, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 22, 2021.

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 10-10.739 Fish Utilization Permit. The commission proposes to amend section (2) of this rule.

PURPOSE: The proposed amendment authorizes the selling of common and grass carp to commercial establishments by contractors in a department contracted invasive fish removal project.

(2) Individuals under contract with the department and their authorized assistants may take, possess, and transport invasive fish, **common carp, and grass carp** in accordance with the terms of the contract during a department sponsored invasive fish removal project,

and may donate or sell such fish to a commercial establishment when possession is accompanied by a valid invoice or bill of sale showing the date, name, and address of the contractor, and the weight of each species.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. Original rule filed March 2, 2020, effective Aug. 30, 2020. Amended: Filed Jan. 22, 2021.

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 Game Processing: Permit, Privileges, Requirements. The commission proposes to amend section (2) of this rule.

PURPOSE: This amendment adds an exception for hides with excess tissue removed from the requirement for cervid carcass parts not returned to the patron to be disposed of in a sanitary landfill or transfer station and removes the requirement that processors dispose of cervid waste in sanitary landfills or transfer stations that are permitted specifically by the Missouri Department of Natural Resources.

(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, **except for cervid hides from which all excess tissue has been removed**) not returned to patrons in a **permitted** 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 cervids and black bears shall be made available for inspection by an authorized agent of the department at any reasonable time.

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 Jan. 22, 2021.

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 section (5) of this rule.

PURPOSE: This amendment adds exceptions for specified cervid parts from the requirement for cervid carcass parts not returned to the patron to be disposed of in a sanitary landfill or transfer station and removes the requirement that taxidermists dispose of cervid waste in sanitary landfills or transfer stations that are permitted specifically by the Missouri Department of Natural Resources.

(5) All licensed taxidermists and tanners shall keep accurate, up-to-date records of the number and species of all wildlife received, the full name and address of the consignor (or seller of furbearers), the dates of all transactions and disposition of all wildlife, and the specific locations where all tanned or mounted wildlife is being exhibited or displayed on a form approved or provided by the department. Printed copies of this form can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and online at www.missouriconservation.org. Licensed taxidermists and tanners shall dispose of all cervid carcasses (or parts thereof, **except for cervid hides from which all excess tissue has been removed, antlers, antlers attached to skull plates, or skulls cleaned of all muscle and brain tissue, upper canine teeth, and finished taxidermy products**) not returned to patrons and carion beetles and their waste in a **permitted** sanitary landfill or transfer station [*permitted by the Missouri Department of Natural Resources,*] and retain proof of disposal. These records and wildlife shall be available for inspection by an authorized agent of the department at any reasonable time. All completed records required by this rule, including proof of disposal of cervid carcass parts, shall be retained for three (3) years. Renewal of a permit shall be conditioned upon compliance with this rule.

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 Jan. 22, 2021.

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 10-11.186 Waterfowl Hunting. The commission proposes to amend section (2) and remove subsection (3)(T) of this rule.

PURPOSE: The proposed amendment removes Lake Paho Conservation Area from prohibited for waterfowl hunting and removes Yellow Creek Conservation Area from a 1:00 pm closure for waterfowl hunting.

(2) **On Lake Girardeau Conservation area,** [W]waterfowl hunting is prohibited [on the following department areas:].

- [(A) Lake Girardeau Conservation Area
(B) Lake Paho Conservation Area]

(3) Waterfowl hunting is prohibited after 1:00 p.m. on designated portions of the following department areas:

- [(T) Yellow Creek Conservation Area]

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.040, RSMo 2016. This rule was 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 Jan. 22, 2021.

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 10-12.109 Closed Hours. The commission proposes to delete subsection (1)(G) and re-letter subsequent subsections of this rule.

PURPOSE: The proposed amendment removes Empire District Electric Company (Ozark Beach Recreation Area), due to a termination of the Community Assistance Program (CAP) agreement, from the rule establishing closed hours for uses other than fishing and other conservation-related recreation at areas managed in cooperation with other public entities.

(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.

[(G) Empire District Electric Company (Ozark Beach Recreation Area)]

[(H)](G) Kearney (Jesse James Park Lake)

[(I)](H) Kirksville (Hazel Creek Lake, Spur Pond)

[(J)](I) Lancaster (City Lake, Paul Bloch Memorial Pond)

[(K)](J) La Plata City Lake

[(L)](K) Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)

[(M)](L) 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 Jan. 22, 2021.

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)(FF), amend section (4) by adding subsection (4)(A) and (4)(B), delete subsection (6)(T), and add subsection (8)(D) of this rule.

PURPOSE: The proposed amendment allows for boats without motors on Sedalia (Clover Dell Park Lake) and restricts boats to no wake speed on Watkins Mill State Park (Williams Creek Lake), areas under management agreement with the department.

(2) Boats are prohibited on the following areas:

- (FF) Sedalia (*Clover Dell Park Lake,*) Liberty Park Pond);

(4) Only boats without motors may be used on **the following areas:**

- (A) Columbia (Stephens Park Lake, Twin Lakes); and
(B) Sedalia (Clover Dell Park Lake).

(6) Outboard motors in excess of ten (10) horsepower may be used but must be operated at slow, no-wake speed on the following areas:
(R) Unionville (Lake Mahoney); **and**
(S) Wakonda State Park (Agate Lake and Wakonda Lake); *and*.
[(T) Watkins Mill State Park (Williams Creek Lake).]

(8) Outboard motors of any size may be used on the following areas, but must be operated at slow, no-wake speed:
(A) Concordia (Edwin A. Pape Lake);
(B) Odessa City Lake; *and*
(C) Pleasant Hill (Pleasant Hill City Lake); *and*
(D) Watkins Mill State Park (Williams Creek 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 Jan. 22, 2021.

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 delete subsections (35)(B) and (C), and re-letter subsequent subsections of this rule.

PURPOSE: The proposed amendment removes common and grass carp from the definition of Invasive fish in the Code.

(35) Invasive fish: Shall include fish defined as prohibited in 3 CSR 10-4.117(C) and the following:
(A) Bighead carp (*Hypophthalmichthys nobilis*); **and**
[(B) Common carp (*Cyprinus carpio*)
(C) Grass carp (*Ctenopharyngodon idella*)]
[(D)](B) Silver carp (*Hypophthalmichthys molitrix*).

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 Jan. 22, 2021.

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 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 100—Missouri Commission for the Deaf and
Hard of Hearing
Chapter 200—Board for Certification of Interpreters**

PROPOSED AMENDMENT

5 CSR 100-200.150 Fees. The Missouri Commission for the Deaf and Hard of Hearing is amending section (1), adding a new section (4), and renumbering as necessary.

PURPOSE: This amendment would add an additional \$15 fee for all TEP testers and add an Out of State Processing Fee for all out of state testers.

(1) The following fees are established by the Missouri Commission for the Deaf and Hard of Hearing for various processes and services in the Missouri Interpreters Certification System (MICS):

(B) Written Test Fee	[\$25] \$ 40
(P) Out-of-State Processing Fee	\$ 35

(4) An out-of-state tester who signs up for both the Test of English Proficiency (TEP) and Performance test to be taken on the same day will incur only one (1) out-of-state processing fee.

[(4)](5) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the other fees provided for in this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 209.292(7), 209.295(2), and 209.311, RSMo 2016. Original rule filed June 20, 1996, effective Jan. 30, 1997. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 1, 2021.

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 cost private entities an estimate of five thousand five dollars (\$5,005) annually.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri Commission for the Deaf and Hard of Hearing, 3216 Emerald Lane, Suite B, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Title 5—Department of Elementary and Secondary Education
Division Title: Division 100—Missouri Commission for the Deaf and Hard of Hearing
Chapter Title: Chapter 200—Board for Certification of Interpreters**

Rule Number and Title:	5 CSR 100-200.150
Type of Rulemaking:	Proposed Rulemaking

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:
119	Interpreter Candidates (TEP)	\$1785 per year
92	Out of State Candidates	\$3220 per year
		Total= \$5,005

III. WORKSHEET

TEP: 119 testers x \$15 additional fee added to the test= \$1,785 per year

Out of State Processing Fee:

TEP: 53 testers x \$35 out of state fee= \$1,855

Basic Performance: 24 testers x \$35 out of state fee= \$840

Advanced Performance: 12 testers x \$35 out of state fee= \$420

Master Performance: 3 testers x \$35 out of state fee= \$105

The annual amount to private entities is \$5,005 per year.

IV. ASSUMPTIONS

All TEP testers will incur an additional \$15.00 charge for taking this test.
Based on the TEP testers from 2019, it is estimated to have 53 testers per year.

All Out of State testers will incur an out of state processing fee of \$35.
Based on the 2019 records, it is estimated to have 92 out of state testers per year.

The estimated number of out of state TEP testers is 53 per year.

The estimated number of out of state Basic performance testers is 24 per year.

The estimated number of out of state Advanced Performance testers is 12 per year.

The estimated number of out of state Master Performance testers is 3 per year.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 50—Division of Workers' Compensation
Chapter 5—Determination of Disability**

PROPOSED RULE

**8 CSR 50-5.007 Evidence of Occupational Disease Exposure for
First Responders**

PURPOSE: The intent of this rule is to clarify that certain evidence related to exposure of First Responders to COVID-19 will be available for review in proceedings under Chapter 287, RSMo. This rule is also for the purpose of providing protections for First Responders in the state of Missouri related to the COVID-19 public health emergency. This rule implements clarifications to the Missouri Workers' Compensation Law effected by the Governor's Executive Order 20-19 (originally Executive Order 20-02) and pursuant to the Governor's emergency powers under Chapter 44, RSMo. This rule will also assist the Missouri State Department of Health and Senior Services in performing their critical duties of providing for the health and welfare of Missouri citizens.

(1) A First Responder, defined as a law enforcement officer, firefighter, or an emergency medical technician (EMT), as such occupations are defined in section 287.243, RSMo, who has contracted COVID-19 may present evidence in the form of an affirmation from their employer that the First Responder's duties were such as to create an occupational exposure to COVID-19. In any proceeding under Chapter 287, RSMo, such affirmation may be relied upon as sufficient competent evidence in the record for a finding that the occupational disease arose out of and in the course of such employment and that such occupational exposure was the prevailing factor in causing the resulting medical condition, disability, and/or death. When such affirmation is presented, medical conditions, disability, and/or death resulting from COVID-19 shall be considered to follow as an incident of an occupational disease and shall not be considered an ordinary disease of life to which the general public is exposed outside of the employment.

(2) The authorization referred to in section (1) shall be made on the following form, the sole purpose of which is to be submitted as evidence in a proceeding under Chapter 287, RSMo. As used in this section, the term "Authorized Employer Representative" shall mean a person with supervisory authority over, and with personal knowledge of the daily work-related duties of, the named First Responder.

Affirmation of Employer—Scope of Employment of First Responder Employee

By signing this form I affirm by personal knowledge or belief that the individual named below is a First Responder as defined in section 287.243, RSMo and that such individual's duties arising in the normal scope and course of his/her employment do require and cause in-person interactions with the public, in a manner not typically required of the general public, as to expose him/her to COVID-19 and that such individual did perform such duties during the time of a declared state of emergency.

This form shall constitute evidence that may be offered in a proceeding under Chapter 287, RSMo.

First Responder Employee (Name): _____

Employer: _____

Authorized Employer Representative (Name/Title): _____

Authorized Employer Representative (Signature): _____

In Witness whereof, I have hereunto subscribed my name and affixed by official seal

this _____ day of _____, 20____.

Notary Public

My Commission Expires:

(3) Section (1) shall not apply if a subsequent medical determination establishes that the First Responder did not contract COVID-19.

(4) Notwithstanding section (1), if the weight of sufficient competent evidence demonstrates that a First Responder contracted COVID-19 resulting from exposure that was not related to the First Responder's employment, the claim shall not be compensable.

(5) The provisions of this emergency rule shall cease to be in effect at the expiration of the state of emergency declared in Executive Order 20-19 (originally declared in Executive Order 20-02) or any successor executive order extending the state of emergency, whichever occurs later.

AUTHORITY: section 287.650, RSMo 2016. Emergency rule filed Jan. 15, 2021, effective Feb. 1, 2021, expires July 30, 2021. Original rule filed Jan. 22, 2021.

PUBLIC COST: Due to the state of emergency caused by the COVID-19 pandemic and the difficulty of predicting the viral infection rates and the potential long-term health effects and the fatality rates of First Responders, the fiscal impact of this rule is unknown. Since determinations of benefits under Chapter 287, RSMo are decided on a case-by-case basis by an administrative law judge, precise estimates are unknowable. Based on reports of first injury and claims filed during 2020, an estimate for the impact of this rule may range from between zero (\$0) and three hundred eighteen thousand seven hundred eighty dollars (\$318,780). However, distribution of vaccines to First Responders are estimated to reduce infections by around ninety-five percent (95%) before the date this rule becomes effective therefore cost is estimated to be at the low end of this range.

PRIVATE COST: The overwhelming majority, if not all, of the First Responders covered by this rule are employees of state or local governments. Due to the state of emergency caused by the COVID-19 pandemic and the difficulty of predicting the viral infection rates, the potential long-term health effects and the fatality rates of First Responders, the fiscal impact of this rule is unknown.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Workers' Compensation, Attn: Colleen Joern Vetter, Director, PO Box 58, Jefferson City, MO 65102-0058. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Title 8 – DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division Title: Division 50 – DIVISION OF WORKERS’ COMPENSATION
Chapter Title: Chapter 5 – DETERMINATION OF DISABILITY**

Rule Number and Name:	8 CSR 50-5.007 Evidence of Occupational Disease Exposure for First Responders
Type of Rulemaking:	Proposed

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Political subdivisions providing workers’ compensation for first responders as defined in the proposed rule.	Due to the state of emergency caused by the COVID-19 pandemic and the difficulty of predicting the viral infection rates and the potential long-term health effects and the fatality rates of First Responders, the fiscal impact of this proposed rule is unknown. Since determinations of benefits under Chapter 287 are decided on a case-by-case basis by an administrative law judge, precise estimates are unknowable. However, based on reports of first injury and claims filed during 2020, an estimate for the impact of this rule may range from between \$0 and \$318,780. However, distribution of vaccines to First Responders are estimated to reduce infections by around 95% before the date this rule becomes effective therefore cost is estimated to be at the low end of this range.

III. WORKSHEET

- See below.

IV. ASSUMPTIONS

- **PUBLIC COST:** Due to the state of emergency caused by the COVID-19 pandemic and the difficulty of predicting the viral infection rates and the potential long-term health effects and the fatality rates of First Responders, the fiscal impact of this proposed rule is unknown. Since determinations of benefits under Chapter 287 are decided on a case-by-case basis by an administrative law judge, precise estimates are unknowable. However, based on reports of first injury and claims filed during 2020, an estimate for the impact of this rule may range from between \$0 and \$318,780. However, distribution of vaccines to First Responders are estimated to reduce infections by around 95% before the date this rule becomes effective therefore cost is estimated to be at the low end of this range.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Title 8 – DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division Title: Division 50 – DIVISION OF WORKERS’ COMPENSATION
Chapter Title: Chapter 5 – DETERMINATION OF DISABILITY**

Rule Number and Title:	8 CSR 50-5.007 Evidence of Occupational Disease Exposure for First Responders
Type of Rulemaking:	Proposed

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:
Any private entity made up of first responders as defined in the proposed rule.	Any private entity made up of first responders as defined in the proposed rule.	Due to the state of emergency caused by the COVID-19 pandemic and the difficulty of predicting the viral infection rates, the potential long-term health effects and the fatality rates of First Responders, the fiscal impact of this proposed rule is unknown.

III. WORKSHEET

- See below

IV. ASSUMPTIONS

- The overwhelming majority, if not all, of the First Responders covered by this proposed rule are employees of state or local governments. Due to the state of emergency caused by the COVID-19 pandemic and the difficulty of predicting the viral infection rates, the potential long-term health effects and the fatality rates of First Responders, the fiscal impact of this proposed rule is unknown.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 91—Rehabilitation Services for the Blind (RSB)**

PROPOSED AMENDMENT

13 CSR 40-91.020 Vocational Rehabilitation for the Blind. The division is amending the purpose and sections (1) through (20), adding new sections (9), (15), (18), and (20), deleting sections (4), (7), (11), (19), (20), (22)–(24), and the forms, and renumbering as necessary.

PURPOSE: This amendment makes broad changes to the Vocational Rehabilitation program to ensure compliance with federal law and regulations, ensure federal language is not replicated where possible, and reduce regulations/restrictions where practical.

PURPOSE: This rule establishes the guidelines for provision of vocational rehabilitation services to [eligible] applicants and eligible clients as mandated by the Rehabilitation Act of 1973 (P.L. 93-112), as amended through [1986] 2020, 34 CFR 361 and 34 CFR 363. These services are authorized by sections 207.010, [207.020,] 209.010 and 209.020, RSMo.

[Editor’s Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.]

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

(1) The program of vocational rehabilitation for the blind (VR) is administered [according] pursuant to [34 CFR 361, 34 CFR 363 and 34 CFR parts 74-81] the Rehabilitation Act of 1973 as amended, Title 16 of Chapter 29, United States Code, and Chapter 209, RSMo. [34 CFR 361] Federal law requires Rehabilitation Services for the Blind (RSB) to develop policies that govern the administration of the vocational rehabilitation program and allows RSB to develop limitations within which it administers some areas of the program. [These areas and limitations on each area are identified in this rule, as follows:

- (3)(B)1. Basic conditions of eligibility;
- (3)(D) Interim determination of eligibility;
- (10) Vocational rehabilitation services for the individual;
- (11)(C)1. Individualized written rehabilitation program for supported employment placements;
- (12)(A) Training costs, tuition and fees;
- (12)(B) Support services associated with training;
- (13)(C)1.—5. Payment for physical or mental restoration;
- (14) Support services;
- (15)(A)6., (15)(B)—(E) Supported employment services;
- (16) Transition services;
- (18)(B)—(D) Standards for facilities and other providers of services;
- (20)(B) Facilities and services for groups of handicapped individuals;
- (21)(A), (21)(B) Order of selection;
- (22)(A), (22)(D)1.L., (22)(D)2.C. Appeal procedures;

(23) Confidentiality of information; and
(24) Forms used in administration of the vocational rehabilitation program.] Therefore, except as otherwise provided and as allowed by federal law, this rule hereby incorporates by reference the provisions and definitions from the Code of Federal Regulations (CFR) listed below as published by the Office of the Federal Register, 800 North Capitol St. NW, Suite 700, Washington, DC 20408, and which is located on the website of the U.S. Government Publishing Office at <https://www.govinfo.gov/content/pkg/CFR-2019-title34-vol2/pdf/CFR-2019-title34-vol2-subtitleB-chapIII.pdf>. This rule does not incorporate any subsequent amendments or additions.

- (A) 34 CFR 361.5, July 1, 2019;
- (B) 34 CFR 361.13, July 1, 2019;
- (C) 34 CFR 361.36, July 1, 2019;
- (D) 34 CFR 361.42, July 1, 2019;
- (E) 34 CFR 361.43, July 1, 2019;
- (F) 34 CFR 361.44, July 1, 2019;
- (G) 34 CFR 361.45, July 1, 2019;
- (H) 34 CFR 361.46, July 1, 2019;
- (I) 34 CFR 361.47, July 1, 2019;
- (J) 34 CFR 361.48, July 1, 2019;
- (K) 34 CFR 361.49, July 1, 2019;
- (L) 34 CFR 361.51, July 1, 2019;
- (M) 34 CFR 361.53, July 1, 2019;
- (N) 34 CFR 361.56, July 1, 2019;
- (O) 34 CFR 361.57, July 1, 2019;
- (P) 34 CFR 363.1, July 1, 2019;
- (Q) 34 CFR 397.20; July 1, 2019;
- (R) 34 CFR 397.30, July 1, 2019; and
- (S) 34 CFR 397.40, July 1, 2019.

(2) Definitions. [The following definitions are used in this rule:]

- (A) This section includes all definitions in 34 CFR 361.5.
[(A)](B) “Applicant” [is] means an individual who has applied for vocational rehabilitation services and whose eligibility for services has not been determined[;].
[(B)] RSB is the designated state unit that is referred to in 34 CFR 361.1(c)(2), 361.5(b)(3) and 361.6(b) and (c). The designated state unit is referred to in this rule as RSB[;].
(C) “Client” [is] means an individual who meets the requirements to receive vocational rehabilitation services under the terms of an [individualized written rehabilitation program (IWRP)] Individualized Plan for Employment (IPE). A client also is an individual who meets the requirements to receive vocational rehabilitation services during a period of [extended evaluation] trial work in order to determine the individual’s rehabilitation potential [for an individual who meets the requirements to receive services during an interim period of eligibility. In section (23), client means any person who is referred to RSB for services, who applies for services and who has received services;].
(D) “Client assistance [project] program” [is] means a federal-ly-funded, statewide program that is available to advise all applicants and clients of all services available from RSB and to assist applicants and clients in their relationships with RSB and other providers of vocational rehabilitation services, including appropriate remedies to ensure the protection of applicant and client rights[;].
(E) “Deputy director[, Division of Family Services]” means the person in the Family Support Division/RSB who is the state unit director referred to in 34 CFR [361.8/361.13(b)]. The state unit director is referred to in this rule as the deputy director[;].
(F) [Division of Family Services] “Family Support Division” is the sole state agency referred to in 34 CFR [361.1(a)] 361.13(a)(1)(ii). The sole state agency is referred to in this rule as the division[;].
[(G) Employability is a determination that, with the provision of vocational rehabilitation services, the client is likely

to enter or retain full-time employment or, if appropriate, part-time employment that is consistent with the capacities and abilities of the client. The employment may be in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work, including work for which payment is in-kind rather than in cash; sheltered employment; home-based employment; supported employment or other gainful work;

(H) Evaluation of rehabilitation potential is a comprehensive diagnostic study that is carried out for each applicant for vocational rehabilitation, so that RSB is able to determine the applicant's eligibility for services and is able to develop an IWRP for any applicant who is eligible for services;

(I) Extreme medical risk is a risk of substantially increasing functional impairment or risk of death if medical services are not provided promptly;

(J) Impartial hearing officer is an individual who is not an employee of a public agency that is involved in any decision regarding the furnishing or denial of rehabilitation services to an applicant or client; who has not been involved in previous decisions regarding the applicant or client; who has background and experience in the delivery of rehabilitation services and who has no personal or financial conflict of interest in any individual case;

(K) Rehabilitation engineering means the systematic application of technologies, engineering methodologies or scientific principles to meet the needs of and address the barriers confronted by individuals with handicaps in areas that include education, rehabilitation, employment, transportation, independent living and recreation; and

(L) Workshop is a rehabilitation facility, or that part of a rehabilitation facility, that is engaged in production or service operation for the primary purpose of providing gainful employment, as an interim step in the rehabilitation process for those individuals who cannot be absorbed readily into the competitive labor market, or during the time that employment opportunities in the competitive labor market do not exist for them.]

(G) "Individual with a most significant disability" means an eligible individual with a significant disability who additionally has a severe physical or mental impairment that seriously limits three (3) or more functional capacities (i.e., mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome.

(H) "Maintenance" means limited monetary support provided to an individual for expenses, such as food, shelter, clothing, and other necessary subsistence items (i.e. personal toiletries) that are in excess of the individual's normal expenses and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

(I) "Rehabilitation Services for the Blind" or "RSB" is the unit within the Family Support Division that is the "designated state unit" identified in 34 CFR 361.5(c)(13).

(3) Eligibility for Vocational Rehabilitation Services.

[(A) General Provisions of Eligibility.

1. RSB shall determine an applicant's eligibility for services without regard to the applicant's sex, race, color or national origin.

2. RSB shall not exclude any group of individuals from services solely on the basis of the type of disability of the members of the group.

3. RSB shall not apply an upper or lower age limit which would result in a decision of ineligibility for any applicant who meets the basic conditions of eligibility stated in subsection (3)(B); and

4. RSB shall not apply any durational or other residence requirement that would exclude from services any applicant or client who is present in the state.]

[(B)](A) Basic Conditions of Eligibility. An individual's eligibility for vocational rehabilitation for the blind services [is] shall be based only upon the following criteria:

1. The individual [has a physical or mental disability(ies) which, for that individual, constitutes or results in a substantial handicap to employment] meets the eligibility requirements contained within 34 CFR 361.42(a)(1), and the individual meets the visual disability requirements of RSB.

A. Visual disability means that an individual with a nonprogressive eye disease has a central visual acuity of twenty/two hundred (20/200) or less in the better eye with best correction; or, if the central visual acuity with best correction is more than twenty/two hundred (20/200) in the better eye, there is a visual field defect in which the widest diameter of the visual field subtends an angle distance no greater than twenty degrees (20), or has a visual efficiency that does not exceed twenty percent (20%).

B. Visual disability means that an individual with a progressive eye disease has a central visual acuity of twenty/seventy (20/70) or worse in the better eye with best correction, or has a visual efficiency that does not exceed sixty-four percent (64%), or has near vision that is decreased to the extent that the individual cannot read print that is smaller than Jaeger nine (J9) with best correction; and].

[2. There must be a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

(C) Consultation With Missouri Division of Vocational Rehabilitation. The Missouri Division of Vocational Rehabilitation provides vocational rehabilitation services to individuals who do not meet visual disability requirements stated in this rule but who are visually impaired and who meet all eligibility requirements of the Missouri Division of Vocational Rehabilitation. RSB and the Missouri Division of Vocational Rehabilitation consult regarding individuals for whom there is a question as to which agency should provide vocational rehabilitation services to the individuals.

(D) Interim Determination of Eligibility. RSB may initiate vocational rehabilitation services to an applicant on the basis of an Interim Determination of Eligibility, referred to in this rule as IDE. RSB shall use this process only when it is critical to the applicant's vocational rehabilitation that RSB initiate services sooner than would be possible through the normal eligibility determination process and the applicant, on the basis of available information, is highly likely to be eligible for vocational rehabilitation services. The IDE, under any circumstance, shall not extend beyond ninety (90) days from the date RSB completes a certification of eligibility for the individual to receive services during an interim period. RSB shall implement the IDE process by following these guidelines:

1. In order to make an IDE, RSB shall use information that is available at the time the individual applies for vocational rehabilitation services;

2. RSB shall record the basis for the decision that, after RSB completes a comprehensive diagnostic study, it is highly likely the individual will meet the basic conditions of eligibility for vocational rehabilitation as stated in subsection (3)(B);

3. RSB shall not use the IDE process for any applicant who needs an extended evaluation of rehabilitation potential as discussed in section (8);

4. RSB shall complete a comprehensive diagnostic study as soon as possible after RSB completes a certification of eligibility for the individual to receive services during an interim period which, under no circumstance, may exceed

ninety (90) days from the date RSB completes the certification of eligibility;

5. RSB and the individual shall develop an IWRP which shall contain the vocational goal, the service objective(s) that the individual will attain during the interim period and the vocational rehabilitation service(s) RSB will provide to meet each objective;

6. As soon as RSB completes a comprehensive diagnostic study, RSB shall complete a certification of eligibility for an individual who is eligible to receive vocational rehabilitation services;

7. If, while obtaining information for the comprehensive diagnostic study, RSB determines the individual is not eligible for vocational rehabilitation services, RSB shall cease delivery of all services planned for delivery during the ninety (90)-day period and shall close the individual's case immediately; and

8. All terms of this rule apply to an individual who receives services during an IDE.]

(B) Prohibited Factors—

1. RSB shall ensure prohibited factors, as set forth in 34 CFR 361.42(c), are not imposed in determining eligibility.

(C) Assessment for Determining Eligibility for Services. RSB shall carry out a comprehensive diagnostic study of each applicant for vocational rehabilitation services. The purposes of the comprehensive diagnostic study are to determine whether the applicant meets the basic conditions of eligibility stated in subsections (A)-(B) of this section. If RSB is unable to determine whether the applicant will benefit from vocational rehabilitation services in terms of an employment outcome due to the severity of the applicant's disability, RSB shall carry out an assessment of the applicant's capacity for work, as provided in section (6) of this rule.

(D) Presumptive Eligibility for Social Security recipients and beneficiaries shall be pursuant to 34 CFR 361.42.

(E) RSB and the Missouri Division of Vocational Rehabilitation may consult with each other regarding individuals for whom there is a question as to which agency should provide vocational rehabilitation services to the individuals.

[(4) Authorization of Services. RSB shall not pay for any vocational rehabilitation service unless RSB authorized the service before it was provided. A vendor who provides services that are authorized by RSB must agree not to charge or accept any payment from an applicant or client or from a member of the applicant's or client's family unit unless the amount of the charge or payment is previously known to and approved by RSB.]

[(5)](4) The Case Record. RSB shall maintain for each client or applicant a case record that includes, to the extent pertinent, documentation of the following factors:

(A) [The comprehensive diagnostic study that supports RSB's determination of eligibility, the basis for providing services to a client during an interim period of eligibility or the need for a client to have an extended evaluation of vocational rehabilitation potential and, as appropriate, the nature and scope of vocational rehabilitation services that RSB will provide;] The documentation listed within 34 CFR 361.47;

[(B) The reasons for a RSB determination of ineligibility and that RSB reviews the ineligibility determination no later than twelve (12) months after RSB made the determination of ineligibility;

(C) RSB's determination that the client's handicaps are severe;

(D) RSB's periodic assessment of the client during an extended evaluation of vocational rehabilitation potential;

(E) An IWRP for each client, including each client who is

receiving services during a period of extended evaluation or during an interim period of eligibility;]

[(F)](B) For each client to whom physical and mental restoration services are provided, documentation that supports RSB's determination that the client's clinical status is stable or slowly progressive;

[(G) RSB's decision to provide services to family members;

(H) Client participation in the cost of maintenance as discussed in 13 CSR 40-91.020(14)(B);

(I) Client eligibility for and use of any comparable service or benefit;

(J) RSB advised the client or applicant of the confidentiality of all information pertaining to the client's case;

(K) The reason for closing a client's case and, if RSB determines the client to be rehabilitated, the basis upon which RSB determined the client's employment is suitable;]

[(L)](C) The [D]decision to provide post-employment services after the client achieves his/her employment objective, the basis upon which RSB develops the post-employment plan, a description of the services RSB provides, and the outcome of the services;

[(M) Any action and decision involving a client's or applicant's request for review of RSB determinations, as discussed in section (22); and

(N) Any reviews of RSB's determination that a client to whom RSB has provided vocational rehabilitation services under the terms of an IWRP is no longer capable of achieving a vocational goal.]

(D) Documentation of the determination of maintenance; and

(E) The eligible individual's use of any comparable service or benefit.

[(6)](5) Comparable Services and Benefits.

[(A) Before] RSB [provides any vocational rehabilitation service to a client or members of the client's family, RSB] shall utilize the requirements of 34 CFR 361.53(a)-(c) when determin[e]ing whether comparable services and benefits are available under any other program[, except when RSB is providing the following services:]

1. Evaluation of rehabilitation potential;
2. Counseling, guidance and referral;
3. Vocational and other training services, including personal and vocational adjustment, books, tools and other training materials, that are not provided in institutions of higher education;
4. Job placement;
5. Rehabilitation engineering services; and
6. Post-employment services that include rehabilitation services listed in paragraphs (6)(A)1.—5.

(B) RSB shall require that if comparable services and benefits are available to a client, the client must utilize the comparable services and benefits to meet, in whole or in part, the cost of the client's vocational rehabilitation services, except in the situation stated in subsection (6)(C).

(C) RSB shall not determine whether comparable services and benefits are available under any other program if the determination of the availability of comparable services and benefits would delay the provision of vocational rehabilitation services to any client who is at extreme medical risk. RSB shall base a determination of extreme medical risk upon medical evidence provided by an appropriate licensed medical professional.

(7) Evaluation of Rehabilitation Potential.

(A) RSB shall carry out a comprehensive diagnostic study of each applicant for vocational rehabilitation services. The purposes of the comprehensive diagnostic study are to determine whether the applicant meets the basic conditions of eligibility stated in subsection (3)(B) and to determine the nature and scope of services that RSB will provide if the person is determined to be eligible.

(B) For each applicant, RSB shall obtain and evaluate the following information:

1. Current medical and, when appropriate, psychological evidence of all disabilities and other factors that relate to the applicant's handicap to employment. In each case of mental or emotional disorders, the applicant shall have an examination by a physician skilled in the diagnosis and treatment of mental or emotional disorders, or by a psychologist who is licensed or certified under state law or regulations;

2. Appraisal of the current general health status of the applicant, using all available medical information; and

3. Appraisal of the applicant's intelligence level, personality, vocational adjustment, personal adjustment, social adjustment, educational achievement, ability to acquire occupational skills, capacity for successful job performance, employability, employment opportunities, patterns of work behavior, work experience, need for rehabilitation engineering services and other pertinent information that RSB needs to determine the applicant's eligibility.]

[(8)](6) [Extended Evaluation] Trial Work Period. RSB shall provide vocational rehabilitation services to an applicant during a [period of extended evaluation] Trial Work Period under the following circumstances:

(A) [RSB determines that] If an applicant has a mental or physical disability(ies) that, for the applicant, constitutes or results in a substantial [handicap] impediment to employment but RSB cannot determine, from information obtained during the comprehensive diagnostic study described in subsection [(7)](3)(C) that the applicant will benefit in terms of employability from the provision of vocational rehabilitation services;

(B) RSB shall provide only those services that the client must have so that RSB can determine the individual's eligibility for vocational rehabilitation services;

(C) The [extended evaluation period] Trial Work Period shall begin on the date that RSB [certifies the applicant for extended evaluation] approves a written plan and certifies the applicant for a Trial Work Period, as discussed in subsection [(9)](C), and shall not exceed a total period of eighteen (18) months during the time the applicant's case is open] (7)(B);

(D) RSB shall make a thorough assessment of the client's progress as often as necessary but at least once every ninety (90) days from the date of the certification for [extended evaluation services] trial work services. This assessment shall include periodic reports from each rehabilitation facility or person who is providing services to the client;

(E) RSB shall end the provision of services [at any time before the end of the eighteen (18)-month period] when RSB is able to determine whether the client is eligible for vocational rehabilitation services;

(F) RSB shall not certify more than one (1) [period of extended evaluation] Trial Work Period during the time the client's case is opened; and

(G) If RSB closes a client's case and the individual reapplies for vocational rehabilitation services, RSB may provide another period of [extended evaluation] trial work services if the individual needs to receive extended services in order for RSB to determine the individual's vocational potential.

[(9)](7) Certification.

(A) Certification of Eligibility. [As soon as] If RSB determines that an applicant is eligible for vocational rehabilitation services, RSB shall complete a certification of eligibility. The certification shall include the statement that the applicant meets the basic conditions of eligibility stated in subsection (3)[(B)](A). [An appropriate RSB staff member shall sign and date the certification.]

[(B) Certification of Interim Period of Eligibility. As soon as RSB determines that an applicant is eligible to receive voca-

tional rehabilitation services during an interim period of eligibility, RSB shall complete a certificate of interim eligibility. The certification shall state the basis for the determination that, after completion of the comprehensive diagnostic study, the applicant will meet the basic conditions of eligibility stated in subsection (3)(B). An appropriate RSB staff member shall sign and date the certification.]

[(C)](B) Certification for [Extended Evaluation] Trial Work Period. [As soon as] If RSB determines that an applicant meets the requirements stated in subsection [(8)](6)(A), and a Trial Work plan has been developed, [an appropriate] RSB [staff member] shall complete, sign, and date a certification for [extended evaluation] Trial Work Experience.

[(D)](C) Certification of Ineligibility. [As soon as] When RSB determines that the applicant or client is not eligible for vocational rehabilitation services, an appropriate RSB staff member shall complete, sign, and date a certification of ineligibility. RSB shall assure that the certification states the reasons for the ineligibility determination. RSB shall carry out all activities stated in subsections [(17)](16)(B) and (C).

[(10)](8) Vocational Rehabilitation Services for the Individual. As appropriate to the vocational rehabilitation needs of each applicant or client, RSB shall make available the vocational rehabilitation services that are listed in this section. To the extent possible, within the limitations [of 34 CFR 361, 34 CFR 365, 34 CFR parts 74–81,] that are relevant to this section in federal law, Chapter 34, RSMo, available appropriations, and this rule, the applicant or client may select the vendor(s) to provide each service. RSB shall provide services in the most cost-effective manner in order to prepare the client for [entry level employment that is consistent with the client's capabilities and abilities] securing, retaining, advancing in, or regaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. This rule establishes the procedures for the provision of the following services and the limitations on the provision of certain services:

(A) [Evaluation of vocational rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for, and the nature and scope of services RSB will provide so that the eligible person can reach a vocational goal;] Pre-Employment Transition Services listed in 34 CFR 361.48(a) may be provided only to students with disabilities, as defined in subsection (2)(A) of this rule, who can receive these services either as full VR clients under an IPE, or prior to signing an application for vocational rehabilitation services; and

(B) [Counseling and guidance, including personal adjustment counseling, to maintain a counseling relationship with the applicant or client throughout the program of services, to help the applicant or client secure needed services from other agencies and to advise the applicant or client about the client assistance program;] Vocational Rehabilitation Services that may be available to applicants, as defined under subsection (2)(A) of this rule, or clients, as defined under subsection (2)(D) of this rule—

1. Assessment - Services provided and activities performed to determine an individual's eligibility for VR services and/or to determine the nature and scope of VR services to be included in the IPE;

2. Diagnosis and Treatment of Impairments – as provided in section (11) of this rule;

3. Vocational Rehabilitation Counseling and Guidance, including personal adjustment counseling, to maintain a counseling relationship with the applicant or client throughout the program of services, to help the applicant or client secure needed services from other agencies, and to advise the applicant or client about the client assistance program;

4. Job Search Assistance - Job search activities that support and assist an individual in searching for an appropriate job. Job search assistance may include help in resume preparation, identifying appropriate job opportunities, developing interview skills, and making contacts with companies on behalf of the consumer;

5. Job Placement Assistance - A referral to a specific job resulting in an interview, whether or not the individual obtained the job;

6. Short Term Job Supports - Support services provided to an individual who has been placed in employment in order to stabilize the placement and enhance job retention. Such services include short-term job coaching for persons who do not have a supported employment goal consistent with the employment goal on the IPE;

7. Supported Employment Services - On-going support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment for a period of time generally not to exceed twenty-four (24) months. Services, such as job coaching, are for individuals who have supported employment and long-term supports identified on the IPEs. On-the-job support services with a supported employment goal are funded using Title VI and Title I funds.

8. Information and Referral Services - Services provided as needed to assist the applicant or eligible individual in securing needed goods and services not available through Rehabilitation Services for the Blind from other agencies or programs, including other components of the statewide workforce development system and the Client Assistance Program;

9. Benefits Counseling - Involves an analysis of an individual's current benefits, such as Social Security Disability Income (SSDI) and Social Security Income (SSI), the individual's financial situation, and the effect different income levels from work will have on the individual's future financial situation. This service is intended to provide the individual an opportunity to make an informed choice regarding the pursuit of employment, but it does not include providing legal advice;

10. Customized Employment Services - The flexible strategies leading to a customized employment outcome; includes job exploration by the individual or working with an employer to facilitate placement;

11. Extended Services - Ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, as outlined in part (13)(A)3.C.(II) of this rule;

12. Graduate College or University Training - as provided in subsection (10)(A) of this rule;

13. Four- (4) Year College or University Training - as provided in subsection (10)(A) of this rule;

14. Junior or Community College Training - as provided in subsection (10)(A) of this rule;

15. Occupational or Vocational Training - as provided in subsection (10)(A) of this rule;

16. On-the-job Training;

17. Registered Apprenticeship Training;

18. Basic Academic Remedial or Literacy Training;

19. Job Readiness Training;

20. Disability-Related Skills Training;

21. Business Enterprise Program (BEP) Training;

22. Customized Training - Training designed to meet an employer's special requirements where the employer has entered into an agreement to hire individuals trained to meet their specific needs;

23. Miscellaneous Training - Any training not covered in the other training categories in paragraphs (9)(B)12.-(9)(B)22.;

24. Transportation - as provided in subsection (12)(A);

25. Maintenance - as provided in subsection (12)(B), monetary support provided for those expenses such as food, shelter

and clothing that are in excess of the normal expenses of the individual, and that are necessitated by the individual's participation in an assessment for determining eligibility and VR needs or while receiving services under an IPE;

26. Rehabilitation Technology - as defined under subsection (2)(A), with guidance as provided in subsection (12)(C) of this rule;

27. Personal Assistance Services;

28. Technical Assistance Services - Services, as provided in subsection (12)(D), provided to eligible individuals who are pursuing a vocational goal of self-employment, telecommuting, or establishing a small business operation, including the development of business plans, marketing analyses, and resource development;

29. Reader Services - as provided in subsection (12)(F);

30. Interpreter Services - as provided in subsection (12)(G);

31. Services to members of an applicant's or client's family - as provided in subsection (12)(H);

32. Post-employment services - Services necessary to maintain or regain other suitable employment; and

33. Other goods and services not already identified in this rule and pursuant to 34 CFR 361.48(b), subject to the restrictions governing the purchasing of goods in subsection (12)(C) of this rule.

[(C) Physical and mental restoration services, as discussed in section (13);

(D) Vocational and other training services, as discussed in section (12);

(E) Maintenance - as discussed in subsection (14)(B);

(F) Transportation, as discussed in subsection (14)(A);

(G) Services to members of an applicant's or client's family, as discussed in subsection (14)(F);

(H) Interpreter services and note-taking services for deaf applicants or clients, including tactile interpreting for deaf-blind applicants or clients;

(I) Reader services, rehabilitation teaching services, note-taking services and orientation and mobility services for blind applicants and clients;

(J) Telecommunications, sensory and other technological aids and devices;

(K) Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement and other appropriate public service employment;

(L) Placement in suitable employment;

(M) Post-employment services necessary to maintain or regain other suitable employment;

(N) Occupational licenses, including any licenses, permits or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation or enter a small business and tools, equipment, initial stocks and supplies;

(O) Rehabilitation engineering services; and

(P) Other goods and services that can be expected to benefit a client in terms of employability.

(11) Written Rehabilitation Program. Throughout this section, the word client means an individual who has been determined to be eligible for vocational rehabilitation services, or who is receiving vocational rehabilitation services during a period of extended evaluation or during a period of interim eligibility.

(A) General Provisions. RSB shall initiate and periodically update for each client an IWRP, referred to in sections (11)-(23) of this rule as IWRP. A copy of the IWRP, Form R-10, is in section (24). RSB shall adhere to the following procedures regarding the IWRP:

1. RSB shall provide vocational rehabilitation services

according to the IWRP and shall not provide any service that is not recorded in the IWRP;

2. RSB shall develop the IWRP jointly with each client or, as appropriate, the client and a parent, guardian, legal custodian or other representative, including other suitable professional and informed advisors;

3. RSB shall provide a copy of the IWRP and all amendments to the IWRP to the client or, as appropriate, to the client and a parent, guardian, legal custodian or other representative;

4. RSB shall advise each client or, as appropriate, the client's parent, guardian, legal custodian or other representative of all RSB procedures and requirements that affect the development and review of the IWRP;

5. RSB shall initiate the IWRP after RSB completes a certification of eligibility for vocational rehabilitation services, as stated in subsection (9)(A), certification of an interim period of eligibility, as stated in subsection (9)(B), or certification for extended evaluation, as stated in subsection (9)(C);

6. RSB shall ensure that a client's IWRP and all amendments to the IWRP become a part of the client's case record;

7. RSB shall have the client or, as appropriate, the client's parent, guardian, legal custodian or other representative sign the IWRP and all amendments to the IWRP, except case closure amendments. The signature indicates the client or, as appropriate, the client's parent, guardian, legal custodian or other representative agrees to the terms of the IWRP and amendments;

8. RSB shall review each client's IWRP as often as necessary, but at least once every twelve (12) months, and shall review the IWRP of each client who is in a period of extended evaluation or interim period of eligibility as often as necessary, but at least once every ninety (90) days. RSB shall give each client or, as appropriate, the client's parent, guardian, legal custodian or other representative an opportunity to review the IWRP and, if necessary, jointly redevelop the IWRP and agree to its terms;

9. RSB shall amend a client's IWRP when—

A. There is a significant change in the client's existing IWRP;

B. RSB closes a client's case after development of an IWRP; or

C. RSB plans to provide post-employment services to a client;

10. RSB shall prepare a client's IWRP in coordination with the appropriate educational agency whenever RSB plans to provide vocational rehabilitation services to a client who is eligible for services under the Individuals With Disabilities Education Act. RSB shall include with the IWRP a summary of relevant components of the client's individualized education program; and

11. RSB shall meet the following conditions for a client when RSB is terminating services under an IWRP because RSB determines that the client is not capable of achieving a vocational goal and for an applicant when RSB is terminating services because RSB cannot determine that the applicant is eligible for service:

A. RSB shall make a decision of ineligibility only with the full participation of the client or, as appropriate, the client's parent, guardian, legal custodian or other representative unless the client refuses to participate, the client is no longer present in the state or his/her whereabouts are unknown, or the client's medical condition is rapidly progressive or terminal. When RSB obtains the full participation of the client or the client's representative, RSB shall record the views of the client or representative in the

IWRP;

B. RSB shall record the rationale for the ineligibility decision as an amendment to the IWRP, certifying that the provision of vocational rehabilitation services has demonstrated the client is not capable of achieving a vocational goal. RSB prepares a certification of ineligibility, as stated in subsection (9)(D); and

C. RSB shall make a periodic review, at least annually, of the ineligibility decision, as stated in subsection (17)(D).

(B) Content of IWRP. RSB shall develop each IWRP for a client on the basis that the client is eligible for vocational rehabilitation services that will enable the client to achieve a suitable vocational goal, that vocational rehabilitation services are needed during an extended period of evaluation in order to determine whether the applicant is capable of achieving a vocational goal or the applicant meets criteria to receive services during an interim period of eligibility. RSB shall include, as appropriate, statements concerning:

1. The basis on which RSB determined the client is eligible for vocational rehabilitation services, the applicant needs an extended evaluation of vocational rehabilitation potential in order for RSB to make a determination of eligibility or the applicant needs to receive vocational rehabilitation services during an interim period of eligibility;

2. The long range and intermediate rehabilitation objectives for a client;

3. The specific vocational rehabilitation services that RSB will provide so the client will be able to achieve the established rehabilitation objectives;

4. An assessment of the client's expected need for post-employment services;

5. The projected dates for the initiation of each vocational rehabilitation service and the expected duration of each service;

6. A procedure and schedule, based upon objective criteria, for RSB to conduct a periodic review and evaluation of the client's progress toward achieving rehabilitation objectives;

7. A record of RSB's reviews and evaluations of the client's progress toward achieving rehabilitation objectives;

8. RSB's reassessment, prior to case closure, of the client's need for post-employment services;

9. The views of the client or, as appropriate, the client and a parent, guardian, legal custodian or other representative, including other suitable professional and informed advisors, concerning the client's goals and objectives and the vocational rehabilitation services RSB is providing to the client;

10. The terms and conditions for the provision of vocational rehabilitation services, including the client's responsibilities in implementing the IWRP;

11. The extent of the client's participation, if any, in the cost of vocational rehabilitation services;

12. The extent to which comparable services and benefits are available to the client under any other programs;

13. An assurance that RSB has informed the client of the client's rights and means by which the client may express and seek remedy for any dissatisfaction in the administration of his/her vocational rehabilitation case, including the opportunity for review of RSB decisions, as discussed in section (22);

14. An assurance that RSB has informed the client of the availability of a client assistance program;

15. The basis on which RSB has determined that the client is rehabilitated; and

16. RSB's plan to provide post-employment services after a client has achieved a suitable vocational goal and the basis upon which RSB develops the plan; and, if appropriate

for a client who is severely handicapped, a statement of how RSB will provide these services or will arrange for provision of these services through cooperative agreements with other providers.

(C) *Supported Employment Placements.* In addition to the requirements stated in subsection (11)(B), for each client for whom RSB determines that supported employment is an appropriate vocational goal, the client's IWRP must contain:

1. A description of the time-limited services, not to exceed nine (9) months in duration, that RSB will provide; and

2. A description of the extended services the client needs, an identification of the state, federal or private programs that will provide the continuing support and a description of the basis for RSB's determination that continuing support is available.]

(9) Vocational Planning and the Individualized Plan for Employment.

(A) **Comprehensive Assessment** – For each eligible client, RSB will conduct a comprehensive assessment in order to determine the client's employment goal and the nature and scope of Vocational Rehabilitation services to be included in the IPE.

(B) Individualized Plan for Employment (IPE) Development.

1. The IPE is a written document which outlines a plan to achieve the client's chosen vocational goal and is developed through an assessment of the client's individual rehabilitation needs consistent with his/her unique strengths, resources, abilities, and interests. The IPE shall contain all elements required by 34 CFR 361.46.

2. The IPE should be developed and implemented as soon as feasible after the applicant is determined to be eligible.

A. The IPE must be developed no later than ninety (90) days after the date of determination of eligibility, unless the Vocational Rehabilitation Counselor (VRC) and the eligible individual agree in writing to an extension of that deadline. The client shall sign an agreement authorizing the extension.

3. In developing the IPE, clients shall have the opportunity to exercise informed choice when selecting—

A. The employment outcome/employment setting;

B. The specific VR services needed to achieve the employment outcome;

C. The entity(ies) that will provide the VR services; and

D. The methods available for procuring the services.

4. The IPE will be jointly developed, agreed upon, and signed by RSB and the client and/or his/her representative. The client/representative has the right to develop his/her own IPE; however, the vocational goal and services must be mutually agreed upon. If the VRC cannot support the client's informed choice, the client shall be informed of their rights to administrative review, mediation, and/or fair hearing as well as the availability of the Client Assistance Program.

5. A copy of the initial IPE, all IPE amendments, and any authorizations for service that are completed in accordance with the IPE, will be provided to the client.

6. For students with disabilities, the IPE is developed to be consistent with the student's Individual Education Plan (IEP) or 504 services.

7. The IPE shall be reviewed at least annually by the VRC and the client or the client's representative to assess the client's progress towards achieving the identified employment outcome. This review should be documented in the client record.

(C) Amended IPE.

1. The IPE shall be amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with the VRC, if there are substantive changes in—

A. The employment outcome;

B. The vocational rehabilitation services to be provided;

or

C. The providers of the vocational rehabilitation services.

2. Amendments to the IPE do not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative and by the counselor.

[(12)](10) **Training Costs.** RSB provides training to an eligible client when the client needs training in order to achieve a vocational goal that is recorded in the client's [IWRP] IPE. Training includes the areas of personal and vocational adjustment, academic training, and vocational training.

(A) **Tuition, [and] Fees, Books, and Supplies that the client incurs, that are necessary to participate in the training program.** [All grants, other student financial aid and contributions that are available from any source are used to meet in whole, or in part, the costs of training. Monetary merit awards, including scholarships, that a civic, professional or social organization provides directly to a client are exempt from use as a comparable benefit unless the award specifies that the client shall use the funds to meet the cost of tuition or other specific college-related expenses. RSB does not pay any costs associated with training when resources to meet these costs are available from any other source.] RSB applies the following [additional] limitations to payment of [tuition and fees] tuition, fees, books, and supplies:

1. RSB may pay tuition and fees at state or other public colleges and universities in Missouri, vocational schools, or rehabilitation facilities at current verified rates;

2. RSB may pay tuition[,] and fees at private college or universities in Missouri and at colleges or universities outside Missouri up to but not to exceed [similar costs] the in-state resident rate for on-campus courses at the University of Missouri-Columbia (MU) for students at a comparable academic level. If a deaf-blind client attends Gallaudet [College] University, RSB may pay the full cost of tuition and fees at Gallaudet [College] University; [and]

3. RSB limits payment of [tuition and fees] tuition, fees, books, and supplies for academic and vocational training to a client's completion of the academic or training curriculum that the client needs in order to obtain entry-level employment in the occupational area that the client selects, as recorded in the client's [IWRP] IPE[.];

4. Comparable Services and benefits must also be considered and applied appropriately, as provided in section (6) of this rule. For postsecondary educational programming, this means the student is required to apply for the Pell Grant and each year provide the counselor with a copy of the Student Aid Report. RSB sponsorship may not be provided to students who do not apply for the Pell Grant and supply RSB the Student Aid Report;

5. After the client's first term, prior to authorization of funds for subsequent terms, the student shall provide RSB with grade reports;

6. The student is to register and complete a full course load each term. Full course loads are defined by the institution and/or training program. Payment of any fees for dropping courses shall be the student's responsibility. RSB may recoup the funds that RSB paid for a course that the student drops. RSB shall not pay for the same course twice. RSB may approve less than a full course load, with justification provided by the student. The student shall bear the burden of proof of justifying approval of a less than full course load;

7. The student is to maintain acceptable academic standing of at least a 2.0 GPA each term, or will meet the requirements of the particular training program in which the student is participating in cases where the standard is higher or the standard GPA is not used; and

8. If the student fails to maintain the standards in paragraphs (10)(A)6.-7., the student is required to meet with RSB staff to determine if RSB sponsorship will continue into the next

term. If the student subsequently fails to meet the standards in paragraphs (10)(A)6.-7., RSB sponsorship will be withdrawn until the client meets those standards for one (1) term.

[(B) Support Services Associated With Training. RSB pays for necessary support services associated with training, according to section (14).]

[(13)](11) Physical and Mental Restoration.

(A) General Provisions. Within the limitations **that are relevant to this section in [34 CFR 361, 34 CFR parts 74–79] federal law, Chapter 34, RSMo, and this rule, and subject to appropriation**, RSB may provide the physical and mental restoration services stated in this rule to a vocational rehabilitation client, to correct or substantially modify a physical or mental condition that is stable or slowly progressive and which contributes to the client's *[handicap] impediments* to employment. **All costs and fees paid for physical and/or mental restoration must be for medically necessary services as certified by a qualified and licensed medical professional.**

(B) Types of Physical or Mental Restoration—

1. Medical or corrective surgical treatment;
2. Diagnosis and treatment for mental or emotional disorders;
3. Dentistry;
4. Nursing services;
5. Inpatient or outpatient hospitalization needed in connection

with surgery or treatment and clinic services;

[6. Convalescent or nursing home;]

[7.]6. Drugs and medical supplies;

[8.]7. Prescription of [P]rosthesis and/or[,] orthotics [or other assistive devices, including hearing aids,] related to the individual's diagnosed disability and essential to [obtaining or retaining] the achievement of the employment outcome;

[9.]8. Prescription of [E]yeglasses and visual services, including visual training, and the examination and services necessary for the prescription [and provision] of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids that are prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the client may select;

[10.]9. Podiatry;

[11.]10. Physical, occupational, speech or hearing therapy;

[12.]11. [Psychological] Mental health services;

[13. Therapeutic recreation services;]

[14.]12. Medical or medically related social work services;

[15.]13. Treatment of either acute or chronic medical complications and emergencies which are associated with or arise out of the provision of physical and mental restoration services or which are inherent in the condition under treatment;

[16.]14. Special services for the treatment of end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

[17.]15. Other medical or medically related rehabilitation services, including art therapy, dance therapy, music therapy and psychodrama].

(C) Payment for Physical or Mental Restoration. All comparable services and benefits that are available from any source to meet, in whole or in part, the cost of a client's physical or mental restoration shall be utilized, unless to utilize these services or benefits would delay the provision of vocational rehabilitation services to any client who is at extreme medical risk as defined in subsection (2)(I)(A). A determination of extreme medical risk shall be based upon medical evidence provided by *[an appropriate] a qualified* licensed medical professional. Comparable benefits and services shall include, but not be limited to, Title XVIII (Medicare), Title XIX (Medicaid), public or private health insurance, Veterans Administration medical benefits, and Worker's Compensation.

[1. RSB may pay hospital room and board charges as billed, based on the least expensive standard accommodation charge.]

[2.]1. RSB may pay for other medical services, including hos-

pital facility fees, physician services, laboratory and X-ray fees, and hospital outpatient care, at a rate that is determined by the Department of Social Services to be reasonable, not to exceed Missouri Title XIX rates.

[3.]2. RSB may pay for medical services received outside Missouri at the rates paid by the vocational rehabilitation agency in that state, unless the provider participates in the Missouri Title XIX program, in which case RSB limits payment to Missouri Title XIX rates.

[4.]3. Selection of provider. To the extent possible, RSB shall purchase physical and mental restoration services (including medically necessary dental services) for clients who are eligible for Title XIX benefits from Title XIX providers who are located in Missouri.

[5. When costs of physical and mental restoration services reach twenty-five thousand dollars (\$25,000) regardless of the number of times the client receives services under the terms of an IWRP, requests for additional physical or mental restoration services must be reviewed and approved by the deputy director or designee.]

[(14)](12) Support Services. RSB may pay the reasonable cost of necessary support services to or [i]on behalf of an applicant or client undergoing assessment(s) to determine eligibility and the nature and scope of services. Additionally, pursuant to the individual's rehabilitation plan, RSB may pay the cost of support services to or on behalf of a client in order for the client to benefit from physical or mental restoration, [personal and vocational adjustment evaluation or training,] academic [training], vocational, and other training, or job [placement] related services (such as job search, job placement, and job retention). Comparable services and benefits must be considered and applied appropriately, as outlined within section (5) of this rule. Support services [include, but are not limited to, transportation; books, equipment, tools and supplies; reader service for visually impaired persons; interpreter service for deaf-blind persons; services to members of the client's family and maintenance.] are the following:

(A) Transportation. RSB shall pay the cost of the most economical source of transportation that meets the applicant or client's rehabilitation service needs. RSB pays the cost of mileage traveled by private automobile at the rate per mile currently allowed state employees by the Department of Social Services; bus fare and train fare at actual charges; and cab fare, only when other methods of transportation are not available, at actual charges. When a client must travel by plane, **air travel shall not exceed the cost of coach fare [at the most feasible travel plan may be paid] for the most direct available route.**

1. Physical or mental restoration. RSB may pay the reasonable and necessary costs of transportation that a client needs in order to obtain physical or mental restoration that is prescribed by a provider who meets the standards in subsection [(18)](17)(D).

2. Personal and vocational adjustment training. RSB may pay the reasonable and necessary costs of transportation that a client needs in order to participate in personal and vocational adjustment evaluation or training at a rehabilitation facility that meets the standards in subsections [(18)](17)(A) and (B).

A. When a client stays in rehabilitation facility residential quarters, RSB shall limit payment to the necessary trips the client makes between the client's home and the rehabilitation facility during the time the client is in evaluation or training activities at the facility. The decision regarding the number of trips that are necessary is made by RSB, the rehabilitation facility and the client.

B. When a client lives at home and commutes, the total monthly payment for transportation *[and meals, as described in subparagraph (14)(B)2.B.,]* shall not exceed the reasonable and necessary cost of room and board that is available at or in conjunction with the rehabilitation facility, **as described in subparagraph**

(12)(B)3.C.

3. Academic training and vocational training. RSB may pay costs of **reasonable and necessary** transportation that a client needs in order to participate in academic training or vocational training.

A. If a client lives at home and commutes to a public college or university in Missouri that has available dormitories, the total monthly payment for transportation and meals, *as described in subparagraph (14)(B)2.B.,* shall not exceed the **lowest** cost of double occupancy dormitory charges at the college or university the client attends, **as described in subparagraph (12)(B)3.A.**

B. If a client attends a private college or university in Missouri or a college or university outside of Missouri that has available dormitories, the total monthly payment for transportation and meals shall not exceed the **lowest** cost of double occupancy dormitory charges at the University of Missouri-Columbia, **as described in subparagraph (12)(B)3.A.**

4. **Job-related services** [*placement*]. RSB may pay **reasonable and necessary** costs of transportation that a client needs in order to **participate in job-related services, including to seek employment.**

5. Relocation expenses. RSB may pay **the reasonable and necessary** costs of transportation that a client needs in order to relocate after obtaining employment. Payment of [*relocation*] **these transportation** expenses is limited to payment of moving expenses from the client's home locale to the location of the client's employment[.];

[(B) Maintenance. RSB may pay maintenance to a client when it is necessary to meet basic living expenses so that the client can derive the full benefit of other vocational rehabilitation services that the client receives. RSB uses Form R-10B, which is in section (24), to compute the amount of the client's maintenance.

1. RSB takes into consideration the following factors in determining the amount of maintenance RSB pays to or in behalf of a client:

A. RSB considers the type of vocational rehabilitation service in which the client participates; the permanent living arrangements of the client; the living arrangements that are available to the client and the living arrangements that the client selects during participation in the vocational rehabilitation service; the cost of the client's living arrangements; the income and financial resources of the client; and the maximum maintenance payments that are stated in this rule;

B. The monthly standard allowance, referred to in this rule as MSA, for a client who is a dependent and who lives with the client's parents while participating in training is the cost of all meals the client must purchase in order to participate in training, not to exceed the limitations stated in subparagraph (14)(B)2.B.;

C. The MSA for a client who lives with the client's spouse or dependents is five hundred dollars (\$500) for the client, plus two hundred fifty dollars (\$250) for each additional member of the client's family unit;

D. For the purpose of determining a client's maintenance payment, RSB shall consider only the client's expenses, income and other resources if the client is emancipated and is the only member of the client's family unit;

E. The maximum maintenance payment for any client is the maximum MSA, less the client's adjusted net income or other resources available to meet the client's expenses, or five hundred dollars (\$500), whichever is less, except for clients who are attending business enterprise program training or who are attending Gallaudet College, as discussed in subparagraphs (14)(B)3.I. and J.;

F. Independent client leaves home to obtain training—RSB shall consider the client is maintaining two (2) households, the one the client is leaving and the one the client will maintain while in training. RSB shall include an allowance of two thousand dollars (\$2000) per month for the first family member and five hundred dollars (\$500) per month for each

additional member of the client's family unit who remains in the household the client is leaving. RSB shall apply the income of the client and any other members of the client's family unit toward meeting the expenses of the members of the family unit who remain at home. RSB shall apply the balance of income, if any, toward the maintenance expenses the client will have while in training;

G. Dependent client leaves home to obtain training—RSB shall consider that two (2) households are being maintained, the one the client is leaving and one the client will maintain while in training. RSB shall include an allowance of two thousand dollars (\$2000) for the first family member and five hundred dollars (\$500) per month for each additional member of the client's family unit who remains in the household the client is leaving. RSB shall apply the income of the members of the client's family unit toward meeting the expenses of the members of the family unit who remain at home. RSB shall apply the balance of the income, if any, of the members of the client's family unit toward the maintenance expenses the client will have while in training;

H. For the purpose of determining a client's maintenance payment, RSB shall consider that any client who is not a dependent of another individual for federal income tax purposes is the head of the client's household;

I. Determination of client's adjusted income—when a client is the only member of the client's family unit and the client must leave home for twelve (12) months or less to participate in training, RSB may deduct from the client's net income the amount of payment on deed of trust on property in which the client is living, real and personal property taxes, rent, property insurance and utilities at vacation rate, at actual costs up to a maximum of five hundred dollars (\$500) per month. RSB shall document these expenses and include them on Form R-10A as a reduction of income. If the client's training exceeds a period of twelve (12) months, RSB shall not deduct the cost of maintaining the home the client left in computing the client's total adjusted net income in determining the client's maintenance payment;

J. In computing the amount of a client's adjusted net income, RSB shall deduct the cost of health insurance premiums, court-ordered payments, unreimbursable cost of earning income and, for a client who is in training, the first two hundred dollars (\$200) per month of the client's earned income;

K. In addition to payment of maintenance during semesters or terms to a client who is attending a college or university, RSB may pay maintenance to the client if the client is attending consecutive semesters or terms and the between-semester or between-term break is six (6) weeks or less. In this type of situation, RSB may continue to pay maintenance to the client at the same rate RSB paid during the preceding semester or term. If the break is for a period of more than six (6) weeks, RSB shall not pay maintenance during the break and the client's maintenance may begin again on the first day of the next semester or term that the client attends a college or university; and

L. If two (2) or more clients share the same residence, the maximum monthly maintenance RSB may pay is as follows: two (2) clients, three hundred seventy-five dollars (\$375) each; three (3) clients, three hundred thirty-three dollars (\$333) each; or the deficit shown on Form R-10B, whichever is less.

2. Personal and vocational adjustment training. RSB may pay maintenance to a client who receives personal and vocational adjustment evaluation or training at a rehabilitation facility.

A. If a client lives in a residential rehabilitation facility while receiving personal and vocational adjustment evaluation or training, RSB may pay the contracted costs of room

and board at the residential facility. RSB also may pay a maximum of one hundred twenty dollars (\$120) per month for incidental expenses, less the client's adjusted net income and other resources that are available to meet these costs.

B. If a client lives at home while receiving personal and vocational adjustment evaluation or training at a rehabilitation facility, RSB may pay the costs of meals, not to exceed the maximum meal allowance established by the division for employees that are necessary in order for the client to participate in training. The total monthly payment for meals and transportation, as discussed in paragraph (14)(A)2., cannot exceed the cost of room and board that is available at or in conjunction with the rehabilitation facility the client attends.

3. *Academic training and vocational training.* RSB may pay maintenance that a client needs in order to participate in academic training, evaluation for vocational training or vocational training, which includes vocational skill training that a client may receive at a rehabilitation facility. Subparagraphs (14)(B)3.A.—I. states the different living situations a client may have while participating in academic or vocational training. The client's MSA is the amount of allowable expenses that are recorded on Form R-10B. The maximum amount of a client's maintenance payment in each living situation is the MSA less the adjusted net income and other resources the client has to help meet the expenses.

A. The dependent client lives with the client's parents while participating in training—RSB may reimburse the client for the cost of all meals the client must purchase in order to participate in training, within the limitation stated in subparagraph (14)(B)2.B. and less monthly adjusted net income and other resources the client has to apply toward the cost of meals.

B. The client lives with spouse or other dependents while the client attends a college or vocational training institution—RSB may pay to the client maximum maintenance in the amount of the client's MSA for maintenance, less adjusted net income and other resources that are available to apply toward these costs, or five hundred dollars (\$500), whichever is less.

C. The client lives in a dormitory at a public college or university in Missouri—RSB may pay the charge for double occupancy room in the least expensive available air-conditioned dormitory with the maximum available meal plan, plus the maximum meal allowance established by the division for employees for each meal that is not included in the dormitory charge, plus one hundred twenty dollars (\$120) per month for incidental expenses, less the client's adjusted net income and other resources that are available to help meet these costs.

D. The client lives in a dormitory at a private college or university in Missouri or at an out-of-state college or university—RSB may pay the amount of the charge for a double-occupancy room in the least expensive available air-conditioned dormitory with the maximum available meal plan at the University of Missouri-Columbia, plus the maximum meal allowance established by the division for employees per meal for each meal that is not included in the meal plan, plus one hundred twenty dollars (\$120) per month for incidental expenses, less the client's adjusted net income and other resources that are available to help meet these costs.

E. A single client lives off-campus at a public college or university in Missouri that has available dormitory rooms—RSB may pay the charge for double occupancy room in the least expensive available air-conditioned dormitory with the maximum available meal plan, plus the maximum meal allowance established by the division for employees for each meal that is not included in the dormitory charge, plus

one hundred twenty dollars (\$120) per month for incidental expenses, not to exceed a total of five hundred dollars (\$500) per month, less the client's adjusted net income and other resources that are available to help meet these costs.

F. A single client lives off-campus at a private college or university in Missouri or at an out-of-state college or university that has available dormitory rooms—RSB may pay the amount of the charge for a double occupancy room in the least expensive available air-conditioned dormitory with the maximum available meal plan at the University of Missouri-Columbia, plus the maximum meal allowance established by the division for employees for each meal that is not included in the meal plan, plus one hundred twenty dollars (\$120) per month for incidental expenses, not to exceed a total of five hundred dollars (\$500) per month, less the client's adjusted net income and other resources that are available to meet these costs.

G. The client lives in a dormitory at a residential rehabilitation facility while receiving vocational skill evaluation or training—RSB may pay the cost of room and board plus one hundred twenty dollars (\$120) per month for incidental expenses, less the client's adjusted net income and other resources that are available to help meet these costs.

H. The client lives in rental-based living situation while receiving vocational skill evaluation or training at a training institution that does not have available dormitory rooms—RSB may pay maintenance in the amount of the client's MSA for maintenance, less adjusted net income, or five hundred dollars (\$500), whichever is less.

I. The client is attending Gallaudet College—RSB may pay the full cost of room and board at Gallaudet College plus one hundred twenty dollars (\$120) per month for incidental expenses, less the client's adjusted net income and other resources that are available to help meet these costs.

J. The client is participating in training to become a manager of a vending facility in RSB's business enterprise program—RSB may pay the actual amount of room and board, as arranged by RSB, plus one hundred twenty dollars (\$120) per month for incidental expenses, less the client's adjusted net income and other resources that are available to help meet these costs.

4. Maintenance payments for a client who participates in academic or vocational training are contingent on the following:

A. An undergraduate student must maintain a cumulative grade point average of two-point (2.0) or above on a four-point (4.0) scale or an average of C. A graduate student must maintain a cumulative grade point average of three-point (3.0) on a four-point (4.0) scale or an average of B;

B. An undergraduate or a graduate student must carry a full course load for a full-time student as defined by the college, university or other training institution; and

C. A client who attends an institution or facility that does not operate on a semester-hour or quarter-hour system must be enrolled for a full course load as determined by the institution or facility that the client attends.

5. Job placement. RSB may pay maintenance to enable a client to seek employment or to relocate to accept employment.

A. Job seeking. RSB may pay the cost of necessary lodging and meals that a client needs in order to seek employment. Payment for lodging in Missouri is limited to the daily maximum allowances that are established by the division for lodging and payment for meals cannot exceed the limit stated in subparagraph (14)(B)2.B. Payment for lodging and meals outside of Missouri shall not exceed necessary and reasonable costs.

B. Relocation to accept employment. RSB may pay

necessary and reasonable costs of relocation for a client who relocates to accept employment. Costs of relocation may be paid only from the date the client initiates relocation, not to exceed two (2) weeks before the date the client's employment begins, until the client's paycheck and other income for the pay period equal a full month's pay or the client's maximum allowable maintenance, whichever is less. Maximum allowable maintenance for the first month of employment is three hundred fifty dollars (\$350) for food and incidentals plus the cost of initiating rent and maintaining the living quarters for the first month.

6. Maintenance to family members. RSB may pay maintenance to members of a client's family when all of the following criteria are met: the client is in training; the family members' financial support, after inclusion of the client's maintenance, is reduced as a direct result of the client's participation in training; and the payment of maintenance to family members is necessary in order for the client to complete training. Payment of maintenance to family members may not exceed two hundred fifty dollars (\$250) per month for each member of the client's family, less adjusted net income or other resources that are available to help meet the living expenses of the client's family members.

(C) Books, Equipment, Tools, Supplies and Start-Up Costs for Small Businesses. RSB may pay for books, equipment, tools, supplies and start-up costs that the client needs to participate in personal and vocational adjustment training, homemaker training, academic or vocational training and to perform required job duties following employment.

1. Personal and vocational adjustment training. RSB may pay the costs of basic equipment that the client needs in order to participate in training.

2. Academic training or vocational training, including homemaker training. RSB may pay the cost of books, equipment, tools and supplies that the client needs to participate in training.

3. Job placement. RSB may pay the cost of equipment, tools and supplies that a client needs in order to perform required job duties. RSB may pay the cost of equipment, tools and supplies as soon as specific job requirements are known and specific equipment needs are identified.

4. Start-up costs for small businesses. RSB may pay no more than seventy-five percent (75%) of a client's start-up costs for establishing a small business. When RSB's payment reaches three thousand seven hundred fifty dollars (\$3750), requests for payment of additional start-up costs must be reviewed and approved by the deputy director or designee. Requests for payment of additional start-up costs beyond one (1) year after the initial payment, must be reviewed and approved by the deputy director or designee. Start-up costs for establishing a small business include, but are not limited to, rent, advertising, utilities and supplies. This rule does not apply to start-up costs for vending facilities that RSB supervises according to 13 CSR 40-91.010.

5. Purchase of equipment. When the cost of training and job placement equipment during a current case reaches ten thousand dollars (\$10,000), requests for purchase of additional equipment must be reviewed and approved by the deputy director or designee. When the cost of equipment purchased for a client who is in post-employment status reaches five thousand dollars (\$5000) regardless of the number of times a client's case is opened for post-employment services, re-requests for purchase of additional equipment must be reviewed and approved by the deputy director or designee.]

(B) Maintenance, as defined by subsection (2)(H) of this rule, is not based on an individual's economic or financial situation.

1. The amount of maintenance shall be based on the individ-

ual's specific circumstances.

2. Lodging and meals not covered under a contract or otherwise limited by this rule will be paid at the maximum state rate, per the department's travel policy utilized for Missouri state employees.

3. For other subsistence items that are additional expenses in excess of normal living expenses necessitated by participation in an assessment or IPE, the maximum total for all items combined shall not exceed one hundred twenty dollars (\$120.00) per month.

4. Maintenance to support academic and vocational training received on campus.

A. For in-state public institutions, the maximum payment shall not exceed the lowest cost of a double occupancy dormitory charge with maximum meal plan at the state university's lowest rate.

B. For private and out-of-state institutions, and in-state public institutions that have no dormitories, the maximum payment shall not exceed the lowest cost of double occupancy dormitory charge with maximum meal plan at the University of Missouri - Columbia (MU) unless a comparable academic or vocational program is not offered at in-state public institutions, in which case RSB's payment shall be reasonable (i.e. the least expensive goods and services to meet the recipient's needs) and shall not exceed actual costs.

C. For Personal and Vocational Adjustment to Blindness (PVA) training at a contracted Community Rehabilitation Program (CRP), maintenance will be paid at the contract rate. Those maintenance costs not covered by a PVA contract will be paid in accordance with paragraphs (12)(B)1. and (12)(B)2. above.

D. Maintenance for academic or vocational training is contingent on maintaining acceptable academic standing, as provided in paragraphs (10)(A)6.-7. of this rule, and maintaining full-time status as dictated by the institution.

E. RSB may pay continuous maintenance during school breaks to an eligible individual if the eligible individual is attending consecutive semesters and the term between semesters is less than six (6) weeks.

5. Maintenance to support job-related services.

A. RSB may pay maintenance in support of reasonable and necessary job-related services (such as job search) in accordance with paragraphs (12)(B)1. and (12)(B)2.

B. RSB may pay the necessary costs of establishing a new living arrangement in order for an eligible individual to accept employment. Payment for housing will be limited to expenses actually incurred for no more than two (2) weeks prior to the start date of the employment, and may continue until the eligible individual has been employed for one (1) full calendar month, or one thousand three hundred dollars (\$1,300.00) total for the same time period, whichever is less;

(C) Assistive Technology Devices, Other Equipment, Tools, and Supplies. RSB may pay for reasonable and necessary Assistive Technology Devices as well as other reasonable and necessary equipment, tools, and supplies that the eligible individual needs to participate in academic, vocational or other training, and to perform required job duties following employment;

(D) Start-up costs for small businesses. RSB may pay no more than seventy-five percent (75%) of a client's start-up costs for establishing a small business. When RSB's payment reaches seventeen thousand five hundred dollars (\$17,500.00), requests for payment of additional start-up costs must be reviewed and approved by the deputy director or designee. Requests for payment of additional start-up costs beyond one (1) year after the initial payment, must be reviewed and approved by the deputy director or designee. Start-up costs for establishing a small business include, but are not limited to, rent, utilities, and supplies. This rule does not apply to start-up costs for vending facilities that RSB supervises according to 13 CSR 40-91.010;

(E) Home Modification. Home modification is an allowable expense under the following circumstances:

1. It is essential in order for the eligible individual to achieve an established vocational goal;
2. The eligible individual is in an active status (6 or higher) (Note: This service cannot be provided in Status 10 or 24);
3. The home being modified is owned or being purchased by the eligible individual or the eligible individual's immediate family and is the eligible individual's place of residence;
4. If the eligible individual resides in rental property, the only modification allowed will be ramping or a lift; and
5. When a ramp or lift is being provided for rental property, there must be written permission from the landlord in the case file prior to the service being authorized;

[(D)](F) Reader Service. RSB may provide reader service that a client needs in order to participate in a rehabilitation program, including orientation to employment. *[RSB will not pay the cost of reader service for a client who is in post-secondary training until after the client has applied for and used all funds that are available from the State Reader's Fund, as authorized in sections 178.160 and 178.180, RSMo.]* RSB will pay the cost of reader service for an eligible individual who is in post-secondary training using funds that are available from the State Reader's Fund as matching funds, as authorized in sections 178.160 and 178.180, RSMo;

[(E)](G) [Interpreter Service for Deaf-Blind Persons. RSB may pay the cost of interpreter service when a deaf-blind client needs interpreter service in order to participate in a rehabilitation program, including orientation to employment. RSB may pay the rate that is charged by a qualified interpreter who is available to a client.] **Language/Sign/Tactile Interpreting Services.** RSB applicants and clients shall utilize state-contracted language interpreting services whenever possible. RSB may pay the cost of interpreting services when an individual needs interpreting services in order to participate in a rehabilitation program including orientation to employment when services are not available under a state contract. RSB may pay the rate that is charged by a qualified interpreter who is available to an individual;

[(F)](H) Services to Family Members. RSB may provide services to members of a client's family, when the provision of such services is necessary in order for the client to become rehabilitated/. RSB does not pay maintenance to members of the client's family except when the family member's financial support is reduced as a direct result of the client's participation in training.; and

(I) Other Support Services that are necessary to participate in VR services include, but are not limited to, additional costs incurred for child care and personal assistance services for individuals with most significant disabilities.

[(15)](13) Supported Employment. RSB shall provide vocational rehabilitation services that will lead to supported employment for *[severely handicapped clients]* individuals with the most significant disabilities who are eligible for these services, pursuant to 34 CFR 363.1.

[(A)] The following definitions apply to the supported employment program:

1. *Supported employment is competitive work in an integrated work setting with ongoing support services for any severely handicapped client for whom competitive employment has not occurred traditionally or whose competitive employment has been interrupted or intermittent as a result of the client's severe handicaps. Supported employment also is transitional employment for a client with chronic mental illness. The client needs ongoing support in order to work in the competitive, integrated work setting*
2. *Competitive work is work that a client performs on*

either a full-time or part-time basis that averages at least twenty (20) hours per week for each pay period and for which the client's employer compensates the client in accordance with the Fair Labor Standards Act;

3. *Integrated work setting means a job site where—*
 - A. *Most of the client's coworkers are not handicapped and a client is not part of a work group that is comprised solely of other individuals who are handicapped; or*
 - B. *Most of the client's coworkers are not handicapped and, if a job site described in subparagraph (15)(A)3.A. is not possible, the client is part of a work group of no more than eight (8) individuals who are handicapped; or*
 - C. *If the client works alone or if the client's only coworkers are members of a work group of no more than eight (8) individuals who are handicapped, the client must be able to have regular contact with individuals, other than personnel who provide support services, in the immediate work setting who are not handicapped;*
4. *Ongoing support services means continuous or periodic skill training services that a job coach provides to a client at least two (2) times per month at the job site, to enable the client to perform the work. Ongoing support services also may include, in conjunction with skill training services, other support services the client receives away from his/her work site, such as transportation, personal care services or counseling to members of the client's family;*

5. *Transitional employment for a client with chronic mental illness means competitive work in an integrated work setting. The client may need support services, either at the work site or away from the work site, in order to perform the work. The job placement may not be a permanent employment outcome for the client;*

6. *Traditionally time-limited post-employment services means services that RSB provides to support and maintain a severely handicapped client in employment. RSB shall base the services on RSB's assessment of the client's needs as recorded in the client's IWRP and shall not provide time-limited post-employment services for more than nine (9) months from the date the client obtains employment;*

7. *Individual with severe handicaps means a client who has one (1) or more severe physical or mental handicap that severely limit one (1) or more capacities the client needs in order to work, such as mobility, communication, self-care, work tolerance or work skills, and whose vocational rehabilitation can be expected to require multiple services over an extended period of time;*

8. *Job coaching means a service that includes, but is not limited to:*

A. *Intensive on-the-job training that the client needs in order to learn job duties and job-related responsibilities, such as transportation or coworker relationships;*

B. *Advocacy with employers, supervisor and coworkers to assure integration of the supported employee; and*

C. *Long-term services that include spot checking of client performance, employer satisfaction, job coaching or training in new duties;*

9. *Service provider means a rehabilitation facility or other community-based agency that will provide supported employment placement services to and provide ongoing job support to a client. The services provided by the facility or agency may include, but are not limited to:*

A. *Functional assessment;*

B. *Survey of businesses and assurance of potential work sites suited to the needs of the client;*

C. *Analysis of all relevant job-related variables, such as transportation, job restructuring and tax credit for employers;*

D. *Provision of direct training at employment sites*

until client is working to the employer's standards;
E. Development of internal advocacy system;
F. Gradual decrease in job coach assistance, to be replaced with employer supervision; and
G. Provision of long-term follow-up service as necessary; and

10. *Community service agency means the Department of Mental Health, Senate Bill 40 Boards authorized by sections 205.968–205.972, RSMo, relatives, employers and other public and private agencies that are perceived as the long-term support system for clients who have severe handicaps due to developmental disabilities, sensory impairments or chronic illness.*

(B) RSB shall provide a number of rehabilitation services through the use of regular vocational rehabilitation case service funds in order to facilitate the delivery of services to severely handicapped blind or visually impaired clients under the provisions of the supported employment program. These services include:

1. Evaluation of rehabilitation potential, to determine an individual's eligibility for regular vocational rehabilitation services and eligibility for services through the supported employment program;
2. Counseling and guidance;
3. Personal and vocational adjustment evaluation and training;
4. Physical and mental restoration; and
5. Adaptive equipment that a client may need prior to participating in supported employment activities.

(C) RSB shall use supported employment case service funds for purchase of supported employment services from rehabilitation facilities with which Missouri has contracts for the provision of supported employment services. The services RSB purchases from rehabilitation facilities will consist primarily of job placement services that include development of job sites; contacts with potential employers to encourage them to accept severely disabled blind or visually impaired clients; and on-the-job skill training and support during the nine (9)-month period following job placement. RSB may use supported employment case service funds to provide these services.

(D) At the end of the nine (9)-month period following the client's job placement during which supported employment case service funds may be used to meet the cost of on-the-job skill training and support, the responsibility for providing ongoing support to the client is transferred to the local funding agency that has contracted with rehabilitation facilities to provide this support. RSB cannot spend either regular vocational rehabilitation case service funds or supported employment case service funds for supported employment activities after the end of the nine (9)-month period.

(E) After a client has been determined to be eligible to receive supported employment services, RSB shall meet the cost of those services with supported employment case service funds. If RSB exhausts the supported employment case service funds that are available to it, RSB may meet the cost of supported employment services for a client with regular vocational rehabilitation case service funds up to, but not exceeding, the nine (9)-month period following the client's job placement.]

(A) Supported employment to youth with the most significant disabilities, as defined in subsection (2)(A) of this rule. RSB may provide the following services only to youth with the most significant disabilities seeking a Supported Employment Outcome in competitive-integrated employment.

1. Extended Services. Funds may be used to provide extended services only to youth with the most significant disabilities.

- A. Extended services shall not exceed four (4) years or

until such time that a client no longer meets the definition of a youth with a disability under 34 CFR 361.5(c)(58), whichever occurs first.

[[16]](14) Transition Services. RSB shall provide transition services, as needed by a client to promote the client's movement from school to post-secondary education, vocational training or suitable employment. RSB shall provide transition services through cooperative efforts with the Department of Elementary and Secondary Education, the Missouri School for the Blind and local education agencies.

(15) Extended Employment. Vocational goals for working in extended employment do not meet the requirement for competitive-integrated employment outcomes and thus cannot be supported under the vocational rehabilitation program. The individual seeking extended employment must first obtain documentation that activities as provided in 34 CFR 397.20, 34 CFR 397.30, 34 CFR 397.40, and this section were completed prior to entering extended employment.

(A) RSB shall inform the applicant or eligible individual shall be informed that Vocational Rehabilitation Services are available should the individual wish to pursue competitive-integrated employment.

(B) If the individual, exercising their informed choice, persists in pursuing securing extended employment, RSB and the individual shall follow requirements set forth in 34 CFR 397.20, 34 CFR 397.30, and 34 CFR 397.40 to secure documentation necessary for the individual to enter extended employment, and to ensure the client is offered the required services of these sections at the necessary intervals for the duration of their employment at subminimum wage.

(C) Students with a disability seeking subminimum wage employment.

1. Upon being notified that a student with a disability is seeking subminimum wage employment, the following must take place:

A. RSB shall explain to the student that RSB cannot provide vocational rehabilitation services to obtain subminimum wage employment;

B. RSB shall explain to the student that Vocational Rehabilitative services are intended to achieve an employment outcome in a competitive-integrated employment setting;

C. RSB shall explain that Vocational Rehabilitation Services are available, should the applicant wish to pursue competitive-integrated employment; and

D. RSB shall provide information regarding Pre-Employment Transition Services (PETS).

[[17]](16) Case Closure. RSB shall close an applicant's or client's vocational rehabilitation case at any time in the vocational rehabilitation process when—RSB has determined that an applicant is not eligible for vocational rehabilitation services; the client has completed vocational rehabilitation services that RSB planned to provide, and additional vocational rehabilitation services are either unnecessary or inappropriate, except services that RSB may provide as post-employment services; or an applicant or client is not available to receive vocational rehabilitation services. **Prior to RSB closing any case for the reason that the individual is not available, RSB shall contact the individual at their last known address, notifying them to contact RSB within ten (10) calendar days of the date of the notice. RSB may close the case if the individual does not cooperate with the notice, or if the post office returns agency mail directed to the individual indicating no forwarding address.**

(A) Case Closure Without an Eligibility Determination. RSB shall close an applicant's case without a determination of eligibility when the applicant does not, or is unavailable [during an extended period of time] to complete an evaluation of vocational rehabilitation

potential and RSB has made *[repeated,]* reasonable efforts to contact the applicant or, as appropriate, the applicant's representative, and to encourage the applicant's participation.

(B) Case Closure Due to a Determination of Ineligibility Before *[IWRP] IPE* Development. When RSB determines, *[on the basis of clear evidence,]* that an applicant does not meet one (1) or more of the basic conditions of eligibility for vocational rehabilitation services or that a client no longer meets one (1) or more of the basic conditions of eligibility, RSB shall close the applicant's or client's case. RSB shall carry out the following activities in regard to case closure:

1. RSB shall make the ineligibility determination only after full consultation with the applicant or client or, as appropriate, the applicant's or client's parent, guardian, legal custodian, or other representative, or after giving a clear opportunity for such consultation. *[RSB shall document in the case file the consultation, or the opportunity for the consultation]; and*

2. RSB shall complete a certification of ineligibility which indicates the reasons the applicant or client is ineligible for vocational rehabilitation services. *[The appropriate RSB staff member shall sign and date the certification; and]*

[3. RSB shall notify the applicant or client in writing of the action RSB has taken. The notification shall include information regarding the applicant's or client's appeal rights and the assistance that is available from the client assistance program. As appropriate, RSB shall refer the applicant or client to other agencies or programs.]

(C) Case Closure Due to a Determination of Ineligibility After *[IWRP] IPE* Development. When RSB decides to terminate vocational rehabilitation services that RSB is providing to a client because of a determination that the client is *[not capable of achieving a vocational goal] no longer eligible*, RSB shall *[amend the client's IWRP and shall] close the [client's] individual's case. [RSB shall carry out the following activities in regard to case closure:]*

[1.] RSB shall make the ineligibility determination only after full consultation with the client or, as appropriate, the client's parent, guardian, legal custodian, or other representative, or after giving an opportunity for such consultation, except under the following circumstances: the client has refused to participate, the client is no longer present in Missouri, the client's whereabouts are unknown, or the client's medical condition is rapidly progressive or terminal. When the client or, as appropriate, the client's parent, guardian, or other representative has consulted with RSB, RSB shall record the views of the individual regarding the decision.; and

2. RSB shall record in an amendment to the IWRP the rationale for the ineligibility decision, which certifies that the provision of vocational rehabilitation services has demonstrated the client is not capable of achieving a vocational goal. The appropriate RSB staff member shall sign and date the certification.

A. If the amendment to the IWRP and the certification are in the form of a letter to the client, RSB shall identify the letter as an amendment to the IWRP

B. RSB shall notify the client in writing of the action RSB is taking. The notification shall include information regarding the client's appeal rights and the assistance that is available from the client assistance program. RSB does not need to send written notification to the client when the client is deceased, the address is unknown or the client cannot be located.

C. When RSB determines a client is not eligible for additional vocational rehabilitation services because the client cannot be expected to benefit from vocational rehabilitation services in terms of employability, RSB shall refer the client for possible services under RSB's independent living rehabilitation program and, as appropriate, to other agencies or programs.]

(D) Annual Review of Certain Case Closures. When RSB determines an applicant or client is ineligible for vocational rehabilitation services because the applicant or client cannot be expected to achieve a vocational goal, RSB shall review the ineligibility decision *[within twelve (12) months. During the review, RSB gives the applicant or client or, as appropriate, the applicant's or client's parent, guardian, legal custodian or other representative the opportunity for full consultation in the reconsideration of the decision of ineligibility.*

1. RSB shall initiate the first review of a decision of ineligibility. The applicant or client or, as appropriate, the applicant's or client's parent, guardian, legal custodian or other representative shall initiate any subsequent review.

2. RSB shall not carry out the first annual review of a decision of ineligibility when the applicant or client refuses the review, the applicant or client has refused vocational rehabilitation services, the applicant or client is no longer present in the state or whereabouts are unknown, or the applicant's or client's medical condition is rapidly progressive or terminal] pursuant to 34 CFR 361.43(e).

(E) Case Closure as Successfully Rehabilitated. *[In order for RSB to determine that a client has been successfully rehabilitated, the client must have been provided an evaluation of rehabilitation potential, determined to be eligible for vocational rehabilitation services, provided counseling and guidance as essential vocational rehabilitation services, provided appropriate and substantial vocational rehabilitation services in accordance with the client's IWRP, and determined to have achieved and maintained suitable employment for at least sixty (60) days. The client's case record must contain the following information:*

1. The basis on which RSB determined the client's employment is suitable;

2. The contribution of vocational rehabilitation services to the client's rehabilitation;

3. The involvement of the client or, as appropriate, the client's parent, guardian or other representative in the decision to close the client's case

4. Written notice to the client of the closure decision and the availability and purpose of post-employment services. The text of the written notice must identify it as an amendment to the client's IWRP.] RSB shall close a client's case if RSB determines the client to be successfully rehabilitated, as set forth in 34 CFR 361.56. RSB shall conduct post-exit follow up after the case is closed to verify continued employment.

(F) RSB shall notify the client in writing of case closure. The notification shall include information regarding the client's appeal rights and the assistance that is available from the client assistance program. RSB does not need to send written notification to the client when the client is deceased, the address is unknown, or the client cannot be located.

[(18)](17) Standards for Facilities and Other Providers of Services. RSB requires providers from which RSB purchases vocational rehabilitation services to meet the standards stated in this section of this rule and 34 CFR 361.51.

(A) Rehabilitation Facilities. A rehabilitation facility is a facility that is operated for the purpose of providing vocational rehabilitation services to clients and applicants. A rehabilitation facility must have the capability to provide, singly or in combination, one (1) or more of the following vocational rehabilitation services:

1. Vocational rehabilitation services, including under one (1) management: medical, psychiatric, psychological, social, and vocational services;

2. Testing, fitting, or training in the use of prosthetic or orthotic devices;

3. Prevocational conditioning or recreational therapy;

4. Physical and occupational therapy;

5. Speech and hearing therapy;
6. Psychiatric, psychological, and social services;
7. Evaluation of rehabilitation potential;
8. Personal and work adjustment;
9. Vocational training with a view toward career advancement, which is provided in combination with other rehabilitation services;
10. Evaluation or control of specific disabilities;
11. Orientation and mobility services and other adjustment services to blind individuals;
12. Transitional or extended employment for those individuals with *[handicaps]* disabilities who cannot be absorbed readily into the competitive labor market;
13. Psychosocial rehabilitation services for clients and applicants with chronic mental illness; and
14. Rehabilitation *[engineering]* technology services.

(B) Rehabilitation Facility Accreditation. A rehabilitation facility must comply with the rehabilitation facility standards *[of]* specified by RSB. These standards *[are in section (18).]* include, but are not limited to, those of the Commission on the Accreditation of Rehabilitation Facilities (CARF) and the Joint Committee on the Accreditation of Hospitals (JCAH), or other national accreditation body, if the standards of the entities referred to in this subsection are approved pursuant to 42 USC 1395bb.

(C) Academic or Vocational Training Accreditation. An agency or institution that provides academic or vocational training services must be accredited or licensed by the accrediting or licensing agency that is appropriate to the training curriculum that the agency or institution provides.

(D) Physical or Mental Restoration Provider Accreditation. A physician or any other health care provider must be certified or accredited to perform the specific service that the applicant or client requires and must be licensed to perform the service in the state in which the service is performed.

(18) Pursuant to 34 CFR 361.49, RSB shall manage a Center for Braille and Narration Production (CBNP) for the purposes of providing access to information for individuals who are blind, including but not limited to Braille, narration, large print, and special electronic formats. Current RSB clients may access these services at no cost. CBNP may provide transcription, narration, and other services required to produce accessible informational materials for a fee set by RSB.

[(19) Small Business Enterprises. Through the business enterprise program, which is administered according to 13 CSR 40-91.010, RSB establishes small business enterprises that are operated by severely handicapped legally blind individuals who have received vocational rehabilitation services. RSB provides management services and supervision to the operators of the small business enterprises.]

(20) Facilities and Services for Groups of Handicapped Individuals with Disabilities.

(A) RSB provides vocational rehabilitation services through the facilities and services for groups of handicapped individuals' individuals with disabilities grant authority. This authority is used when vocational rehabilitation services are not directly related to the [individualized written rehabilitation program Individualized Plan for Employment of an individual client but are expected to contribute to the vocational rehabilitation of a group of [handicapped individuals] individuals with disabilities.

(B) Prior to use of the facilities and services to groups of [handicapped] individuals with disabilities grant authority, RSB documents the need for the services that will be provided.

1. Whenever an agency other than RSB provides vocational rehabilitation services through this grant authority,

RSB will procure services through a contractual agreement between that agency and RSB.

2. Whenever RSB provides vocational rehabilitation services directly through this grant authority, RSB describes the nature and scope of the services that will be provided and the manner in which they will be provided, identifies the client population to which services will be provided and describes the evaluation process that will be used to measure the effectiveness of the services.]

[(21)](19) Order of Selection. [According to 34 CFR 361.36, i/If RSB is unable to provide vocational rehabilitation services to all eligible individuals who apply for services, RSB will implement an order of selection pursuant to 34 CFR 361.36 to ensure that those individuals with the most severe [handicaps] disabilities are provided services.

[(A) Implementation of Order of Selection. If the deputy director decides that RSB needs to implement an order of selection, RSB will submit an amendment to the vocational rehabilitation state plan, which will initiate the order of selection.

(B) Guidelines for Delivery of Services Under an Order of Selection. RSB will provide vocational rehabilitation services to clients who require purchased services in the order stated in this subsection. RSB's provision of purchased services to a client is based entirely on the availability of funds. RSB will serve each client in each priority group in the order of his/her date of eligibility for services. According to 34 CFR 361.36(c), RSB will give special consideration to any client within each priority group whose handicapping condition is a result of disabilities sustained while the client was performing his/her duties as a public safety officer.

1. Priority group I—Every client for whom an IWRP has been developed and signed by RSB and the client and who is in case status ten (10) or above on the date the order of selection becomes effective, regardless of the severity of the client's handicap.

2. Priority group II—Every client who is legally blind or who has a visual efficiency that does not exceed twenty percent (20%) and who has one (1) or more additional disabilities that are stated in 34 CFR 361.1(c)(2) in the definition of individual with severe handicaps.

3. Priority group III—Every client who is legally blind or has a visual efficiency that does not exceed twenty percent (20%) and who does not have one (1) or more additional disabilities that are stated in 34 CFR 361.1(c)(2) in the definition of individual with severe handicaps.

4. Priority group IV—Every client who has a progressive eye disease and whose central visual acuity is twenty/seventy (20/70) or worse in the better eye with best correction, whose visual efficiency does not exceed sixty-four percent (64%) or whose near vision is decreased to the extent that the individual cannot read print that is smaller than Jaeger nine (J9) with best correction, and who has one (1) or more additional disabilities that are stated in 34 CFR 361.1(c)(2) in the definition of individual with severe handicaps.

5. Priority group V—Every client who has a progressive eye disease and whose central visual acuity is twenty/seventy (20/70) or worse in the better eye with best correction, whose visual efficiency does not exceed sixty-four percent (64%) or whose near vision is decreased to the extent that the individual cannot read print that is smaller than Jaeger nine (J9) with best correction and who does not have one (1) or more additional disabilities that are stated in 34 CFR 361.1(c)(2) in the definition of individual with severe handicaps.]

(A) An eligible individual's assigned category may be changed at any time based on information that clarifies the severity of the

individual's disability or if there is a change in the severity of disability.

(B) The implementation of an order of selection shall not affect the provision of diagnostic and evaluation services necessary to determine eligibility.

(C) While under an order of selection, RSB shall develop an individualized plan for employment (IPE) only for those eligible individuals who are in the priority categories currently being served.

(D) RSB shall continue to provide all needed services to any eligible individual who has begun to receive services under an IPE prior to the effective date of the order of selection, regardless of the eligible individual's assigned category.

(E) Eligible individuals will be served under the categories of priority defined in paragraphs (20)(E)1.-3. In accordance with these categories, individuals with the most significant disabilities (Priority I) will be selected first for the provision of vocational rehabilitation services. In the event that all Priority I individuals can be served with available resources, Priority II and then Priority III cases (in that order) will be opened for provision of vocational rehabilitation services.

1. Priority III: Individual with a disability, as defined in subsection (2)(A) of this rule.

2. Priority II: Individual with a significant disability, as defined in subsection (2)(A) of this rule.

3. Priority I: Individual with a most significant disability, as defined in subsection (2)(I) of this rule.

(F) While RSB is operating under the order of selection, all RSB-eligible individuals who are in priority categories that are not being served will be placed on a waiting list prior to IPE development and will remain on the waiting list in that status until approval is given to serve individuals in their assigned priority category. When approval to serve a priority category that has been on the waiting list is given, individuals will be served in the order of their application date.

[(22) Appeal Procedures. An applicant for or recipient of services through RSB's vocational rehabilitation program has the right to appeal any action regarding the furnishing or denial of services. The appeal process may consist of three (3) stages, in which the procedures provide the individual and RSB the opportunity to submit additional evidence and information. Throughout the appeal procedures stated in this section, the words applicant or client also mean, if appropriate, the individual's parent, guardian, legal custodian or other representative.

(A) Administrative Review. An administrative review is not a mandatory part of the appeal process. RSB should encourage the applicant or client to have an administrative review, in an effort to resolve the disputed issue in an informal setting. If an applicant or client elects to have an administrative review, it is the first step in the appeal process. The designee of the deputy director conducts the administrative review.

(B) Fair Hearing. If an administrative review is held, the fair hearing is the second step in the appeal process. If the applicant or client does not wish to have an administrative review, the fair hearing is the first step in the appeal process. In either situation, the fair hearing must be held within forty-five (45) calendar days from the date RSB receives from the applicant or client the initial written request for a review of RSB's decision, unless the applicant or client and RSB agree to waive the forty-five (45)-day time limit. The impartial hearing officer conducts the fair hearing.

(C) Review by Deputy Director. The deputy director may decide to review the decision of the impartial hearing officer.

(D) General Guidelines. RSB staff and an applicant or client must follow these guidelines throughout the appeal procedures.

1. *Administrative review and fair hearing.*

A. RSB service delivery, supervisory and administrative staff inform an individual of the right to an administrative review and fair hearing at the time RSB receives an application for services during the development of an IWRP at each time the client disputes an action involving the provision or denial of services and at the time of case closure for any reason other than death.

B. RSB staff inform the applicant or client of the right to present additional evidence, information and witnesses, to be represented by counsel or other appropriate advocate and to examine all witnesses and other relevant sources of information and evidence.

C. RSB staff inform the applicant or client that the applicant or client must make a written request to the deputy director for an administrative review. If dissatisfied with the decision of the administrative review, the applicant or client must make a written request to the deputy director for a fair hearing.

D. The appropriate RSB staff schedules the administrative review or the impartial hearing officer schedules the fair hearing. The date is agreed to by RSB staff and the applicant or client.

E. The administrative review or fair hearing is held during normal working hours, at the district office where the applicant's or client's case record is located.

F. RSB staff members who are involved in case activities that led to the disputed decision are available for testimony.

G. The applicant or client may present additional evidence, information and witnesses during the administrative review or fair hearing and may be represented by counsel or other appropriate advocate.

H. The deputy director's designee or the impartial hearing officer informs all persons present of the purpose of the administrative review or fair hearing and of the confidentiality of all matters that will be discussed.

I. Before the review or hearing begins, the applicant or client must present written authorization to discuss confidential information in the presence of counsel and witnesses.

J. Following the administrative review, the deputy director's designee sends by certified mail to the applicant or client and to the deputy director a full written report of the findings and the basis for the decision. The letter from the deputy director's designee advises the applicant or client of the right to request a fair hearing and of the right to present additional evidence, information and witnesses, to be represented by counsel or other appropriate advocate and to examine all witnesses and other relevant sources of information and evidence.

K. Within thirty (30) calendar days of the completion of the fair hearing, the impartial hearing officer makes a decision and sends by certified mail to the applicant or client and to the deputy director a full written report of the findings and the basis for the decision.

L. Necessary travel and subsistence costs incurred to attend an administrative review or fair hearing may be paid from vocational rehabilitation case service funds for the following individuals, if RSB gives prior authorization for payment: the applicant or client; a parent of an unemancipated applicant or client up to the age of twenty-one (21) years, the guardian or legal custodian of an applicant or client, or a private individual who provides needed transportation because public transportation is not available or feasible. RSB does not pay the expenses of any other individual, including legal counsel or other advocate, who appears in behalf of an applicant or client at an administrative review or

fair hearing.

2. *Review by the deputy director.* Within twenty (20) calendar days of the mailing of the decision of the impartial hearing officer, the deputy director shall notify the applicant or client whether the deputy director intends to review the decision of the impartial hearing officer. If the deputy director fails to notify the applicant or client of the intent to review the decision as required, the decision of the impartial hearing officer becomes a final decision. If the deputy director decides to review the decision of the impartial hearing officer, the deputy director shall notify the applicant or client of the right to submit additional evidence and information.

A. Within thirty (30) calendar days of notifying the applicant or client of the intent to review the decision of the impartial hearing officer, the deputy director shall notify the applicant or client by certified mail of the final decision, including a full report of the findings and the basis for the decision.

B. The deputy director may not delegate responsibility to make the final decision to any other employee of RSB.

C. Necessary travel and subsistence incurred to attend review by the deputy director may be paid from vocational rehabilitation case service funds in accordance with subparagraph (22)(D)1.L.

(23) Confidentiality of Information.

(A) *Need to Collect Personal Information.* RSB maintains a record on each client who is referred for, applies for, receives or has received services from RSB. RSB informs each client or, as appropriate, parent or guardian, service provider, cooperating agency and other interested persons of RSB's need to collect personal information and the conditions for accessing and releasing this information.

1. All client records are the property of RSB and all contracts, grants, agreements and other documents entered into by the division/RSB state this fact. RSB does not make confidential records available to the general public and does not share these records with advisory groups or other bodies that do not have official responsibility for administration of the program.

2. Except as provided in this rule, RSB discloses no confidential information obtained concerning a client, orally, in writing or by any other means, without the written consent of the client or, as appropriate, parent, guardian or legal custodian.

3. If the client is an unemancipated minor, RSB also obtains the written consent of a parent, guardian or legal custodian. If a client is eighteen (18) years of age or older or is legally emancipated, RSB discloses information regarding that client only with the consent of the client or, if the client has been declared to be incompetent, the client's guardian.

4. Except as provided in this rule, each client who is eighteen (18) years of age or older or, as appropriate, the guardian has full access to all records that contain the client's confidential information. A parent, guardian or legal custodian of a client who is under the age of eighteen (18) years has full access to the confidential information contained in the case record of that client.

5. At the time of first personal contact, RSB advises the client or, as appropriate, parent, guardian or legal custodian of the authority under which information is collected; the principal purposes for which the information will be used or released; whether the client's provision of the information is mandatory or voluntary and the effects of refusing to provide requested information; those situations in which RSB does and does not require the written consent of the client before information may be released; identification of other agencies

to which information is routinely released; and the types of information that are released. All explanations to the client or, as appropriate, to the parent, guardian or legal custodian of the client must be in the individual's primary language or, if indicated, must be through a special mode of communication, including braille.

(B) *Use of Client Personal Information.* RSB uses all client personal information only for purposes directly connected with the administration of the program through which the client has applied for services.

(C) *Removal of Case Records.* RSB shall remove any case record from the appropriate RSB office only with the approval of the deputy director and, when not in use by RSB staff, each case record is filed in a file cabinet.

(D) *Disclosure of Information to Entity Other Than Client.* Whenever RSB discloses personal information to any person or entity other than the client or, as appropriate, parent, guardian or legal custodian, RSB advises the person or entity of the confidential nature of the information and that federal and state law and regulations prohibit disclosure of the information without the informed written consent of the client or, as appropriate, the client's parent or guardian.

(E) *Release of Confidential Information With Written Consent.* When a client or, as appropriate, parent, guardian or legal custodian makes a written request for release of confidential information to the client or to the client's parent, guardian or legal custodian, RSB may release all confidential information, except the following:

1. Unless RSB has purchased it, information obtained from another individual, agency or organization is released only by the providing individual, agency or organization or under conditions established by it. When release of information is prohibited by the provider of the information, RSB informs the client or, as appropriate, parent, guardian or legal custodian of the originator of the information and the client or, as appropriate, parent or guardian is informed that s/he may access it directly from the originator;

2. Information that RSB receives from or that is developed for the Social Security Administration is controlled by that agency's regulations governing confidentiality. Information in the records of the disability determination unit of the Missouri Division of Vocational Rehabilitation is available for use in delivery of services to the client. If a client requests this information, RSB tells the client to contact either the originating source of the information or the Social Security Administration. Federal law authorizes a member of congress to obtain this information. Confidentiality of this information is governed by 20 CFR part 401. This policy applies to all active and closed cases of RSB;

3. Information that RSB purchases may be released according to the terms of this rule;

4. Regardless of its source, RSB does not release to the client any information, including medical or psychological information, that RSB concludes may be harmful to the client. RSB may release such information to the client's parent, guardian, legal custodian or other legal representative or to a physician or licensed psychologist. When it releases such information, RSB informs the recipient of the information that it may be harmful to the client and that the recipient is responsible for use of the information; and

5. When the client makes a written request for release of information to another individual, agency or organization, RSB releases only that information that may be released to the client and only to the extent that the other individual, agency or organization demonstrates that the requested information is necessary for its program. RSB releases information that it determines is harmful to the client only when the other individual, agency or organization provides written

assurance to RSB that the information will be used only for the purpose for which it is requested and that it will not be released to the client.

(F) Release of Confidential Information Without Written Consent. Under the following circumstances, RSB may release confidential information without the written consent of the client or, as appropriate, parent, guardian or legal custodian:

1. A RSB employee may disclose confidential information to other RSB employees in the course of providing services to the client;

2. With authorization of the deputy director, RSB may release confidential information to an organization, agency or individual who is engaged in audit, evaluation or research. With authorization of the deputy director, RSB may release confidential information in cases involving employee disciplinary action. RSB may release the information only for purposes directly connected with the administration of the program from which the client receives services or for purposes that would improve substantially the quality of life for handicapped persons, and only if the organization, agency or individual assures that the information will be used only for the purposes for which it is provided. The information will be released only to persons officially connected with the audit, evaluation, research or employee disciplinary action. The information will not be released to the client and it will be managed in a manner to safeguard confidentiality. The final product will not reveal any personal identifying information without the informed written consent of the client;

3. On a need-to-know basis, RSB may share confidential information with its trainees, interns and volunteers in the same manner as employees;

4. On a need-to-know basis, RSB may share confidential information with individuals, institutions and agencies with which RSB contracts in order to determine eligibility or to provide services under the terms of an IWRP; and

5. RSB may release confidential information without the written consent of the client, under the following circumstances: to protect the client or others, when the client poses a threat to the safety of the client or others; if required by federal law; in response to investigations in connection with law enforcement, fraud or abuse; or in response to judicial order.

(G) Release of Information Regarding Client Appeals. When a client has appealed a decision regarding denial or delivery of services, in accordance with section (22), and appeals the decision of an administrative review to the impartial hearing officer, RSB provides the officer with a copy of all case record information that has a bearing on the appeal issue, including all material relative to the administrative review.

(H) Subpoenas.

1. When a client is involved in litigation or in an administrative proceeding and a RSB employee receives a subpoena to testify, the employee appears according to the terms of the subpoena and testifies if written consent is given by the client. If no written consent is given, the employee informs the court or administrative body of the requirements of the law and regulations concerning confidentiality and testifies only upon order.

2. If a subpoena for client records only is received and if a written consent from the client for release of information is on file, confidential information may be released in accordance with this rule and with the terms of the subpoena.

3. If no written consent from the client is on file and the subpoena is from the client's attorney, RSB shall contact the attorney immediately and request a written consent for release of information from the client. If the subpoena is not

from the client's attorney, RSB contacts the client or the client's attorney, if known, and requests a written consent from the client. Information may be released only after the written consent is received, unless a consent has not been received by the due date of the subpoena. In such a case, the RSB employee appears before the court or administrative body and informs it of the requirements of the law and regulations concerning confidentiality. Unless the client consents at the hearing, the employee testifies only upon order.

4. Whenever a RSB employee's or client's records have been subpoenaed, the client has not given written consent for release of information and the employee is ordered to testify or release information, the division may file a motion to quash, particularly in those cases in which the client is not represented by counsel.

5. Information governed by paragraphs (23)(E)1. and 2. is removed from the case record before the record is released, if the release occurs other than in court. A notice accompanies the record, identifying the material that has been removed and directing the person issuing the subpoena for records to the proper source for release of information. If the subpoena requires a court appearance, the information is segregated in the case record and the employee follows the order of the court, after informing the court of the federal laws and regulations governing confidentiality of information.

(I) Case Record Procedures.

1. A client or, as appropriate, the client's parent, guardian or legal custodian may submit a written request to add, delete or amend information that is contained within the client's case record. Within thirty (30) days of the receipt of the request, RSB decides whether to amend the record.

2. If the record is to be amended, RSB amends any portion of the record that is not accurate, relevant, timely or complete by making appropriate notations in the record or inserting corrective material into the case record. RSB provides a copy of the amended or corrective material to the client.

3. If RSB decides not to amend the case record, RSB informs the client in writing of the decision, the reason for the decision and the procedures the client may follow in placing the statements in the record. The client may submit a written statement of the reasons the client disagrees with the disputed information. RSB places this statement in the case record. RSB identifies any portion of the case record that is disputed and makes available a copy of the client's statement to any agency or person to whom the disputed portion of the record is disclosed.

4. Within ten (10) workdays of the receipt of a request for client information, RSB decides whether to comply with the request and informs the person who requested the information, unless an extension is made by mutual consent or due to the following circumstances: RSB may extend the time for initial determination on a request for an additional ten (10) workdays if it is necessary to search for, collect and examine a number of separate records or if there is need to consult with another agency that has an interest in the decision regarding the request. RSB makes extensions by sending a written notice to the person who makes the request, stating the reason for the extension and the date that a decision is expected. If RSB has not notified the person who requested the information by the end of the first or second ten (10)-workday period, RSB immediately informs the person of the reason for the delay of the date on which a decision may be expected.

(J) Responses to Requests.

1. When a requested case record is available, RSB notifies the person who requested the case record of the date

and place that the record is available for inspection or the date that copies are available. RSB advises of any fees for copying the requested information. If the person who requested the information is unable to pick up the copied information, RSB may mail the information to the person.

2. If RSB denies a written request for a case record, RSB sends written notification to the person who requested the case record. The notification includes the identification of the person who is responsible for the denial and a reference to the specific law or regulations that authorize the withholding of the record.

3. If RSB cannot locate a requested case record or RSB knows that the record has been destroyed, RSB sends written notification to the person who requested the case record.

(K) *Statement of Consent for Release of Information.* A consent for release of information must be in writing and must contain the name of the client; the name and title of the person or organization to which the information is to be released; the extent or nature of the information to be released; a statement that the consent is valid for a period not to exceed thirty (30) days from the date the consent is signed, unless otherwise specified in writing by the client; a statement that the consent is subject to revocation at any time; the signature of the client; and the date of signature.

(L) *Access to Case Record Information.* The original case record may not be removed from the control of RSB, but may be viewed in the RSB office in compliance with this rule. A designated RSB employee is present throughout the period of time that the case record is being reviewed. All releases that require copies are provided through photocopies. RSB may charge its actual cost for copies.

(M) *Case Record Memorandum.* When confidential information is released or release is denied, the RSB employee who makes or denies the release records in the case record—the name of the person who made the request for information; the name of the person to whom the information was released; the date the information was reviewed or otherwise released; and the basis for release of information or denial of the request.]

(24) *Forms Used in Administration of the Vocational Rehabilitation Program.* RSB uses the following forms and documents to administer the vocational rehabilitation program:

(A) *Form R-1—Rehabilitation of the Blind Application;*

(B) *Form R-2—Client Data Record;*

(C) *Form R-3—General Medical Examination Record;*

(D) *Form R-9—Visual Disability Examination Report;*

(E) *Form R-10—Individualized Written Rehabilitation Program;*

(F) *Form R-10A—Financial Inventory;*

(G) *Form R-10B—Maintenance Eligibility;*

(H) *Form R-14—Equipment Ownership Agreement; and*

(I) *Rehabilitation Facility Standards.]*

(20) **Review Procedures.** Pursuant to 34 CFR 361.57, an applicant for or recipient of services through RSB's vocational rehabilitation program has the right to obtain the review of any determination regarding the furnishing or denial of services. The review process may consist of up to three (3) stages, in which the procedures provide the individual and RSB the opportunity to submit additional evidence and information.

(A) **Administrative Review.** An administrative review is an informal process for resolving a request for review without mediation or a due process hearing.

1. The applicant or eligible individual or, as appropriate, the individual's guardian or representative, may request an

Administrative Review by submitting a written request to the Deputy Director or designee.

2. The Deputy Director or designee will conduct an informal review within thirty (30) days from receipt of the request unless both parties agree to an extension of time.

3. The applicant or eligible individual or, as appropriate, the individual's guardian or representative, will be informed of the results of their informal review in writing and the right to a due process hearing or mediation.

(B) **Due Process Hearing.** An applicant or eligible individual may request a due process hearing with or without an administrative review.

1. The applicant or eligible individual must request a due process hearing in writing submitted to the Deputy Director or designee.

2. The hearing officer shall be selected from a list of qualified impartial hearing officers maintained by Rehabilitation Services for the Blind. Selection of hearing officer is by agreement between Deputy Director or designee and the applicant or eligible individual or, as appropriate, the individual's guardian or other representative. If the Deputy Director or designee and the applicant or eligible individual or his or her guardian or representative cannot agree on the choice of a hearing officer, RSB shall select at random a hearing officer from the aforementioned list of qualified impartial hearing officers.

3. The fair hearing shall be held within sixty (60) calendar days from the date RSB receives the eligible individual's request for review of a decision, unless informal resolution or a mediation agreement is achieved prior to the sixtieth day or the parties agree to a specific extension of time.

4. The fair hearing shall be held during normal working hours, at the RSB district office where the eligible individual's case record is located.

5. The applicant or eligible individual or, as appropriate, the individual's guardian or representative, shall be given the opportunity to present and examine witnesses, additional evidence, and relevant sources of information during the due process hearing or if the hearing officer holds the record open to admit additional evidence.

6. The hearing officer will make a determination based on the facts and applicable law. The hearing officer shall render a decision in writing. The decision must specify the findings of fact, conclusions of law, and decision of the hearing officer. The hearing decision must be based solely on the facts adduced to the hearing officer at the hearing. The written decision will be served on the Deputy Director and the individual or applicant, or their representative.

7. Within twenty (20) calendar days of the date of the hearing officer's written decision, either party may request in writing a review of the written decision by the Director of Family Support Division, or his/her designee. The Director of Family Support Division may not delegate the responsibility for reviewing the written decision of the hearing officer to any Family Support Division staff.

8. The Director of Family Support Division or designee shall provide the opportunity for submission of additional evidence and information relevant to a final decision concerning the matter under review.

9. The Director of Family Support Division or Designee may overturn or modify the hearing officer's decision, or part of the decision supporting the position of the applicant or eligible individual, if it is determined, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the federal act and/or regulations, or appropriate state law and/or regulations.

10. The Director of Family Support Division or designee shall provide an independent, final decision in writing, including the statutory and regulatory findings for the decision, to the

applicant or eligible individual or, as appropriate, the individual's representative and to Rehabilitation Services for the Blind within thirty (30) days of the request for the administrative review.

(C) Mediation. Applicants and eligible individuals shall have the right to pursue mediation with respect to disputes involving any determinations that affect the provision of vocational rehabilitation services.

1. Mediation shall be voluntary on the part of the individual and RSB; not be used to deny or delay the rights of an individual to a due process hearing or deny any other rights; and be conducted by a qualified and impartial mediator who is selected from a list of qualified and impartial mediators maintained by RSB.

2. RSB shall bear the reasonable costs of the mediation process.

3. An applicant or eligible individual may request mediation by writing the Deputy Director of RSB and stating the issue(s) to be mediated. If mediation is agreed upon by both RSB and the applicant or eligible individual, a qualified mediator will then be selected by the individual. The mediator will be informed of the request and will assist parties in selecting a mutually agreeable time and place.

4. An applicant or eligible individual may be represented in the mediation session by an authorized representative or licensed attorney, at the individual's expense.

5. The mediation will be held within sixty (60) days unless both parties agree to an extension. Mediation sessions are held at a time and location mutually agreed upon by both parties.

6. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement, and provided to the applicant or eligible individual, or if appropriate, the individual's guardian or representative, and the Deputy Director of RSB within thirty (30) days of completion of the mediation session.

7. Discussions that occur during the mediation process shall be confidential and not used as evidence in any subsequent due process hearing or civil proceeding. Both parties may be required to sign a confidentiality pledge prior to the commencement of such process.

8. Nothing in this section shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to mediation proceedings. Mediation will not be used to deny or delay an individual's due process hearing.

AUTHORITY: sections [207.010, 207.020, 209.010 and 209.020] 207.022, 209.010, and 660.017, RSMo [1994] 2016. Original rule filed Aug. 11, 1978, effective Nov. 11, 1978. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 27, 2021.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

13 CSR 70-20.250 Prior Authorization of New Drug Entities or New Drug Dosage Form. The Department of Social Services is amending sections (3), (4), (5), and (6).

PURPOSE: The purpose of this amendment is to shift these responsibilities to the MO HealthNet Drug Utilization Review Board. This will streamline the New Drug and Prior Authorization process. The Drug Prior Authorization Committee was established by a state regulation.

(3) The review referenced in section (2) shall occur within thirty (30) business days after the division receives notice through pricing updates of the availability of the drug entity on the market. Upon completion of the review, the division shall make the drug available for use by all MO HealthNet participants or refer the new drug or new drug dosage form to the MO HealthNet [Drug Prior Authorization Committee (MDPAC)] Drug Utilization Review (DUR) Board with a recommendation for continued prior authorization. Staff recommendations regarding continued prior authorization of a new drug or new drug dosage form shall be made in writing to the [MDPAC] DUR Board. A copy shall be available to the public prior to the [MDPAC] DUR Board meeting in which the continued prior authorization is to be discussed.

(4) The [MDPAC] DUR Board shall consider any recommendations related to continued prior authorization of a new drug or new drug dosage form at the next scheduled [MDPAC] DUR Board meeting. The division and the [MDPAC] DUR Board may actively seek comments about the proposed restrictions. The [MDPAC] DUR Board shall include [a minimum of fifteen (15)] five (5) minutes for any interested parties who have notified the division in advance of the scheduled meeting to comment about such proposed restrictions.

(5) If the [MDPAC] DUR Board finds that use and cost data, pharmacoeconomic information, along with medical and clinical implications of restriction, are documented and restriction is warranted, the [MDPAC] DUR Board shall hold a public hearing regarding the continued restriction and make a recommendation to the division. Such recommendation shall be provided to the division, in writing, prior to the division making a final determination. The division shall provide notice of the final determination through the Department of Social Services, MO HealthNet Division website at dss.state.mo.gov/mhd, provider bulletins, and updates to the provider manual.

(6) If, after the hearing referenced in section (5) above, prior authorization of the new drug or new drug dosage form is required, the prior authorization requirement shall be reviewed at least once every twelve (12) months by the [MDPAC] DUR Board.

AUTHORITY: sections 208.153 [and], 208.201, and 660.017, RSMo [Supp. 2013] 2016. Emergency rule filed May 22, 2002, effective June 1, 2002, expired Nov. 27, 2002. Original rule filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 16, 2013, effective March 30, 2014. Amended: Filed Jan. 20, 2021.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE
Division 2220—State Board of Pharmacy
Chapter 2—General Rules

PROPOSED RULE

20 CSR 2220-2.685 Standards of Operation for a Class Q: Charitable Pharmacy

PURPOSE: This rule establishes licensing requirements and standards of operation for a Class Q Charitable Pharmacy.

(1) Definitions.

(A) “Charitable organization”—An organization qualified as a charitable organization pursuant to section 501(c)(3) of the *Internal Revenue Code*.

(B) “Charitable pharmacy”—A site in Missouri that is owned or operated by a charitable organization for purposes of providing pharmacy services to appropriately screened and qualified indigent patients. Class Q pharmacies may only provide services to or for qualified indigent patients.

(C) “Health care entity”—A hospital owned by the State of Missouri or any entity or organization that is licensed or certified by the state or federal government as a hospital, hospice facility, ambulatory surgical center, nursing home, long-term care facility, residential care facility, skilled nursing facility, mental/behavioral health care facility, or a habilitation center as defined by Chapter 630, RSMo, and that is required to maintain patient records by state or federal law.

(D) “Qualified indigent patient”—A patient of a charitable pharmacy that has been screened and approved by a charitable organization and deemed not to have sufficient funds to obtain needed medication based on the charitable organization’s pre-established criteria.

(E) “Qualified intern pharmacist”—A currently licensed Missouri intern pharmacist who has completed employer approved training in the activities to be performed at a Class Q pharmacy and has an initial and, if applicable, annual documented assessment of competency.

(F) “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 a Class Q pharmacy and has an initial and, if applicable, 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.

(2) Applications for a Class Q pharmacy must be submitted on a form approved by the board and must be renewed as provided by Chapter 338, RSMo, and 20 CSR 2220-2. No application fee is required (initial or renewal).

(3) Except as otherwise authorized by the board, Class Q pharmacies must comply with all laws and regulations applicable to the pharmacy services provided, including but not limited to 20 CSR 2220-2.010.

Class Q pharmacies/applicants may petition the board to waive designated facility or pharmacy operational requirements not applicable to the Class Q pharmacy’s operations. Waiver requests must be submitted in writing and must demonstrate how the permit holder will maintain patient safety and ensure appropriate patient care and pharmacy security, if approved. Controlled substances must be handled and dispensed in accordance with state and federal law.

(4) Class Q pharmacy services must be safely and accurately provided at all times, in compliance with state and federal law. If authorized by the pharmacist-in-charge, a qualified pharmacy technician or qualified intern pharmacist may assist in the practice of pharmacy at a Class Q pharmacy when a pharmacist is absent, with the exception of sterile compounding activities.

(A) Non-controlled medication may be dispensed or provided by a Class Q pharmacy when a pharmacist is absent if—

1. A pharmacist has previously verified the prescription/medication order contents and affixed label; or

2. Medication is provided to a healthcare provider for administration or delivery to the ultimate user as authorized by the healthcare provider’s scope of practice, and bar code technology is used to verify the correct medication has been provided for the applicable patient. The healthcare provider must be notified that the medication has not been verified by a pharmacist prior to or on delivery.

(B) Patients or the patient’s designee must be offered an opportunity to consult with a pharmacist as required by 20 CSR 2220-2.190. If the pharmacist is not present on site or unavailable to provide remote patient counseling, a written offer to counsel with a contact telephone number for a pharmacist must be supplied with the medication.

(C) If medication is dispensed or provided without a pharmacist present, a Missouri-licensed pharmacist designated by the pharmacist-in-charge must visit the Class Q pharmacy on a weekly basis to review the pharmacy’s activities and records to ensure proper dispensing and compliance with this rule. The name of the reviewing pharmacist and review date must be documented and maintained in the pharmacy’s records.

(D) The pharmacy’s prescription records must identify any prescription/medication order dispensed without a pharmacist present.

(5) If authorized by the pharmacist-in-charge, a Missouri-licensed physician, dentist, physician assistant, or registered nurse may remove non-controlled medication from the pharmacy when a pharmacist is not at the Class Q location in an amount or volume needed to provide or administer to patients on the premises. Medication may only be removed pursuant to a valid order from a healthcare provider authorized to prescribe. The Class Q pharmacy must maintain a record of the distribution that includes the identity of the person removing the medication, the date removed, and the medication’s identity, quantity, strength, and dosage form. A Missouri-licensed pharmacist must review the required documentation on a weekly basis to ensure compliance with this rule. Controlled substances may not be removed or dispensed by a Class Q pharmacy unless a Missouri-licensed pharmacist is present and supervising.

(6) Donated Medication. A Class Q pharmacy may accept and dispense donated medication if—

(A) The medication is a non-controlled substance and is donated by a pharmacy, drug distributor, healthcare entity, or a healthcare provider who is licensed to prescribe. Donated medication cannot be accepted from a patient or a member of the public;

(B) The medication has not been previously dispensed to a patient and is donated in the original, sealed, and unopened manufacturer or unit of use packaging/container;

(C) The medication is not adulterated, misbranded, expired, outdated, subject to a recall, or otherwise not appropriate for patient use. A pharmacist must visually inspect all donated medication prior to placing the medication in active inventory to ensure the medication complies with the requirements of this rule;

(D) The donating entity/healthcare provider attests in writing that the medication has been stored in accordance with manufacturer or United States Pharmacopeia requirements/guidelines and all applicable state and federal law;

(E) The Class Q pharmacy maintains a record of donated medication that identifies the medication received, the donating entity/healthcare provider, the date received, and the medication's quantity, strength, lot number, dosage form, and expiration date; and

(F) The parties comply with all applicable state and federal laws.

(7) Policies and Procedures. Class Q pharmacies must maintain current and accurate policies and procedures governing pharmacy operations, including, but not limited to, policies/procedures for the following, if applicable:

(A) Accepting, dispensing, or filling prescriptions;

(B) Training pharmacy staff;

(C) Drug storage and security;

(D) Offering patient counseling;

(E) Contacting a pharmacist for consultation during the pharmacy's business operations or in the event of an emergency;

(F) If applicable, procedures for dispensing or providing medication in a pharmacist's absence pursuant to section (4) of this rule; including, documenting medication dispensed in the pharmacist's absence, reconciling medication inventory, notifying healthcare providers as required by subsection (4)(A), and documenting required healthcare provider notifications;

(G) Receiving, storing, dispensing, and disposal of donated medication;

(H) Granting, terminating, and monitoring authorized pharmacy access when a pharmacist is not present; and

(I) Reporting and handling of dispensing errors. The pharmacist-in-charge must be notified of a dispensing error within twenty-four (24) hours after the error is learned by pharmacy staff. Policies/procedures must include the manner of notification.

(8) Records. Records required by this rule must be maintained at the pharmacy for a minimum of two (2) years and must be readily retrievable and made available to the board or the board's authorized designee upon request.

AUTHORITY: sections 338.140, 338.210, 338.220, and 338.333, RSMo Supp. 2020, and sections 338.280 and 338.350, RSMo 2016. Original rule filed Jan. 26, 2021.

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 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. 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.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

Division 2263—State Committee for Social Workers Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

20 CSR 2263-2.082 Continuing Education. The committee is amending section (2).

PURPOSE: This amendment changes continuing education credit requirements.

(2) As part of the thirty (30) continuing education (CE) hours required for each renewal cycle, each applicant for renewal or reinstatement of a license shall complete:

(A) Three (3) clock hours of ethics presented by a social worker who has graduated from an accredited school of social work or by a professional who has knowledge of ethics as it relates to the practice of social work; *[and]*

(B) Two (2) hours of suicide assessment, referral, treatment, and management training*./*; **and**

(C) **Three (3) hours devoted exclusively to explicit or implicit bias, diversity, inclusion, or cultural awareness/competency/humility.**

AUTHORITY: section 337.627, RSMo Supp. [2019] 2020. This rule originally filed as 4 CSR 263-2.082. Original rule filed June 25, 2004, effective Dec. 30, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 20, 2021.

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 State Committee for Social Workers, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102, by fax at (573) 526-3489, or via email at lcsw@pr.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.