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SALUS POPULI SUPREMA LEX ESTO

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



JASON KANDER
SECRETARY OF STATE

MISSOURI
REGISTER

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

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HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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

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 90—Weights and Measures Chapter 10—Liquefied Petroleum Gases

PROPOSED AMENDMENT

2 CSR 90-10.001 Definitions and General Provisions. The commission is adding new subsections (1)(M) and (N) and relettering as needed.

PURPOSE: This amendment adds new definitions.

(1) Definitions. The following words and phrases shall mean:

(M) "Propane autogas dispenser," an assembly, equipped with low emission transfer connections, specifically for dispensing liquid propane into containers permanently mounted on over the road vehicles;

(N) "Propane dispenser," an assembly of equipment in which

LP-Gas is stored and dispensed into portable or vehicular mounted containers;

[(M)](O) "Public member," a member of the commission who is a resident of Missouri, is a user of odorized propane, and is not related by the third degree of consanguinity to any retailer or wholesale distributor of propane;

[(N)](P) "Retail marketer," a business engaged primarily in selling propane gas, its appliances, and equipment to the ultimate consumer or to retail propane dispensers;

[(O)](Q) "Transport," combination vehicle or vehicle used to haul propane for non-metered delivery; and

[(P)](R) "Wholesaler," "broker," or "reseller," a seller of propane who is not a producer and who does not sell propane to the ultimate consumer.

AUTHORITY: section 323.010, RSMo Supp. [2012] 2013. Original rule filed Oct. 15, 2008, effective March 30, 2009. Amended: Filed June 13, 2011, effective Jan. 30, 2012. Amended: Filed June 26, 2012, effective Jan. 30, 2013. Amended: Filed June 16, 2014.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE Division 90—Weights and Measures Chapter 10—Liquefied Petroleum Gases

PROPOSED AMENDMENT

2 CSR 90-10.011 Inspection Authority—Duties. The commission is updating section (3).

PURPOSE: This amendment updates the newly adopted National Fire Protection Association publications.

(3) The standards for storage and handling of LP gases and the standards for the installation of gas appliances and gas piping as published in the National Fire Protection Association publications, Numbers 54, [2012] 2015 edition; 58, [2011] 2014 edition; and 1192, [2011] 2014 edition. All publications are published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, which are incorporated by reference, and will be adhered to by the inspection authority in the course of administering its duties. This rule does not incorporate any subsequent amendments or additions to the referenced material. These are adopted as rules in 2 CSR 90-10.020, 2 CSR 90-10.040, 2 CSR 90-10.060, and 2 CSR 90-10.090.

AUTHORITY: section 323.020, RSMo Supp. [2012] 2013. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the Code of State Regulations. Amended: Filed June 16, 2014.

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

in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.020 NFPA Manual No. 54, National Fuel Gas Code. The commission is updating section (1).

PURPOSE: This amendment updates the newly adopted National Fire Protection Association publications.

(1) Standards contained in National Fire Protection Association (NFPA) Manual No. 54, *National Fuel Gas Code*, [2012] 2015 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, are incorporated herein by reference. This rule does not incorporate any subsequent amendments or additions to the referenced material. The balance of this rule sets forth requirements for liquefied petroleum gas (LP gas) applications not covered in the manual. The scope of National Fire Protection Association (NFPA) Manual No. 54, *National Fuel Gas Code*, [2012] 2015 edition, is to develop fire safety codes, standards, recommended practices, and manuals, as may be considered desirable, covering the installation of piping and appliances using fuel gases such as natural gas, manufactured gas, liquefied petroleum gas, and liquefied petroleum gas-air mixture.

AUTHORITY: sections 261.023.6.[, RSMo 2000,] and [section] 323.020, RSMo Supp. [2012] 2013. Original rule filed Jan. 24, 1968, effective Feb. 3, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 16, 2014.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.040 NFPA Manual No. 58, Storage and Handling of Liquefied Petroleum Gases. The commission is updating section (1).

PURPOSE: This amendment updates the newly adopted National Fire Protection Association publications.

(1) This rule incorporates by reference National Fire Protection Association (NFPA) Manual No. 58, *Storage and Handling of Liquefied Petroleum Gases*, [2011] 2015 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, as the current standard for the storage and handling of liquefied petroleum gases (LP gas). This rule does not incorporate any subsequent amendments or additions to the referenced material.

AUTHORITY: sections 261.023.6.[, RSMo 2000,] and [section] 323.020, RSMo Supp. [2012] 2013. Original rule filed Jan. 24, 1968, effective Feb. 3, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 16, 2014.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

PROPOSED AMENDMENT

3 CSR 10-4.110 General Prohibition; Applications. The commission proposes to amend section (1) of this rule.

PURPOSE: This amendment further clarifies terminology within the rule with respect to wildlife raised or held in captivity. The Conservation Commission has constitutional authority over all bird, fish, game, forestry, and wildlife resources of the state.

(1) No bird, fish, crayfish, mussel, amphibian, reptile, mammal, or other form of wildlife, including **wildlife raised or held in captivity**, or their homes, dens, nests, eggs, and larvae in Missouri shall be molested, pursued, taken, hunted, trapped, tagged, marked, enticed, poisoned, killed, transported, stored, served, bought, sold, given away, accepted, possessed, propagated, imported, exported, or liberated to the wild in any manner, number, part, parcel, or quantity, at any time, except as specifically permitted by these rules and any laws consistent with Article IV, sections 40–46 of the *Constitution of Missouri*; however, this Code shall not apply to other invertebrates except as specifically provided.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 13, 2014.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 amend sections (1), (2), (3), and Appendix A, amend subsection (1)(C); add section (5), renumber subsequent sections, amend new sections (6), (7), and (8), and amend new subsections (6)(A), and (6)(C) of this rule.

PURPOSE: This amendment provides clarification, detailed enclosure specifications for the confinement of cervids, and disallows the confinement of white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids in mobile exhibits and auction facilities. As part of this amendment, the commission invites the public to specifically comment on whether the proposed fencing standards contained in 3 CSR 10-9.220(3) should be applied to all existing permits, and if so, what timeframe, if any, should be allowed for permits to bring their facility into compliance with the proposed fencing standards.

This amendment provides for clarification of the rule with respect to wildlife. The Conservation Commission has constitutional authority over all bird, fish, game, forestry, and wildlife resources of the state.

Chronic Wasting Disease (CWD) is a disease that infects deer and other members of the deer family. It is transmitted by prions, which are abnormal proteins that attack the nervous system, and is always fatal to the infected animal. CWD is spread both directly from deer to deer and indirectly to deer from infected soil and other surfaces. CWD prions accumulate in the brain, spinal cord, eyes, spleen, and lymph nodes of infected animals. Once well established in an area, CWD is impossible to eradicate. States with CWD must focus on limiting the spread of the disease and preventing its introduction to new areas. CWD could substantially reduce infected cervid populations by lowering adult survival rates and destabilizing long-term population dynamics.

Infectious diseases such as CWD threaten Missouri's deer herd, Missouri's nearly five hundred and twenty thousand (520,000) deer hunters, millions of wildlife watchers, thousands of landowners, twelve thousand (12,000) Missouri jobs, and hundreds of businesses and communities that depend on the approximately one (1) billion dollars boost in economic activity related to deer hunting and watching.

There is currently no approved live animal test for CWD, tests can only be performed on dead animals. Additionally, there is a lag-time between infection and detection based on current methods. Therefore, it is not possible to determine the disease status of individual animals. The current federal CWD-herd certification program is simply a means of reducing risk by monitoring a herd by testing for disease in animals from a herd that die. It does not indicate a disease-free status for any herd; it only establishes a level of risk associated with each particular herd. Consequently, it is crucial to reduce the risk of infection and spreading of the disease. This regulation is intended to reduce the spread of CWD and other diseases by limiting deer to deer contact through more effective barriers between captive and free-ranging deer.

The first two (2) cases of CWD in Missouri were found in 2010 and 2011 at two (2) private big-game hunting preserves in Linn and

Macon counties. Following those discoveries, the first two (2) cases of CWD in free-ranging deer were confirmed in 2012 in northwest Macon County. To date, Missouri's confirmed cases of CWD total eleven (11) in captive deer from the private hunting preserves and ten (10) in free-ranging deer harvested in Macon County.

Movement of animals between captive facilities elevates the risk of further spreading the disease to new areas of the state. Initial reports of CWD outbreaks in numerous states, including Missouri, have occurred at captive breeding sites. In the past nine (9) years, the number of states with confirmed CWD in free-ranging deer and elk has nearly doubled from eight (8) to fifteen (15). In captive herds, CWD has expanded from twenty-seven (27) to thirty-nine (39) in captive elk herds and from two (2) to seventeen (17) in captive deer herds. Once CWD has been identified in a state, the documentation of CWD in both captive and free-ranging animals indicates that disease transmission has occurred between those groups of animals.

Current fencing standards are not sufficient to eliminate the risk of captive cervid escapes from captive facilities or the possibility of deer to deer contact through the fence. Approximately one hundred fifty (150) escaped cervids have been reported by breeding and big game hunting preserve facilities to the Missouri Department of Conservation over the last three (3) years. Published research from Michigan suggests that double fencing will reduce direct contact between free-ranging and captive cervids via escapes and nose to nose contact, and will likely reduce risk of transmission through indirect routes (VerCauteren, Kurt C., et al. 2007. Fence-Line Contact Between Wild and Farmed White-Tailed Deer in Michigan: Potential for Disease Transmission. The Journal of Wildlife Management 71:1603-1606).

The proposed amendment exempts facilities currently permitted by the department to hold cervids from the new fencing standards. A newly permitted facility or an existing facility permitted by the department to hold cervids which expands the current perimeter fence of that facility will be required to comply with the new fencing standards. The department listened to comments from breeders during public meetings in 2013 that the fencing standards (double fencing with the perimeter fence at ten (10) feet) would be too onerous for existing facilities. The proposed amendment represents a compromise that still provides risk management for the future, while considering the burden on current facilities.

Class I and Class II Wildlife Breeder Permits are also used by auction houses and other businesses that serve as "brokers" for cervids that are bought and sold. Many animals may move through facilities owned by these businesses and may be held in confined areas that have recently held animals from herds of variable disease status. Existing Wildlife Breeder Permit regulations were not designed to address such operations and may not adequately describe the conditions under which these businesses should be operated.

This proposed amendment also makes an editorial change to Appendix A and reorganizes the order of a section for clarification.

(1) Cages, pens, or other enclosures for confining [wild animals] 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:

(C) Captive 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.

(2) Cages, pens, or other enclosures for Class I 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
(L) Nine-Banded Armadillo	12	4	2
(M) Otter	36	6	4
(N) Raccoon	24	6	5
(O) Red Fox	40	8	5
(P) Virginia Opossum	12	3	3
(Q) Weasel	9	3	2
(R) White-tailed Deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids	500	125	/8/See 3 CSR 10-9.220 (3)

(3) *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.*

(A) *Class II wildlife shall be confined in cages, pens, enclosures or in buildings of sufficient strength with restraints affixed to all windows, doors or other means of entry or exit.*

(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.] Cages, pens, or other enclosures of individuals permitted to hold cervids prior to November 30, 2014, shall be at least a single enclosure that extends at least a minimum of eight feet (8') high, shall be maintained in a condition to prevent an escape, and the permit holder shall fell all dead trees with a height greater than the distance to the perimeter fence on land(s) under his/her control. New permits for holding captive cervids on or after November 30, 2014, will be limited to individuals who meet the following fencing and holding requirements:*

(A) Except as otherwise provided in this rule, facilities shall be double fenced. Space between the facility's perimeter fence and any interior fence shall be maintained in a cleared, open condition at least ten feet (10') and no more than twenty feet (20') apart for the primary span of fence and no more than fifty feet (50') apart for turnarounds and corners and shall be constructed in accordance with the following:

1. Perimeter fences shall extend at least a minimum of ten feet (10') high for its entire length, and consist of twelve and one-half (12 1/2) gauge woven wire, fourteen and one-half (14 1/2) gauge high-tensile woven wire, wood planks, or chain link. Strands of barbed wire shall not be used to achieve the maximum

required height.

2. All interior fencing shall extend at least a minimum of eight feet (8') high for its entire length, and consist of twelve and one-half (12 1/2) gauge woven wire, fourteen and one-half (14 1/2) gauge high-tensile woven wire, wood planks, or chain link. Strands of barbed wire shall not be used to achieve the maximum required height.

3. Spacing between vertical wires and wooden planks shall not exceed six and one-half inches (6 1/2").

4. If two (2) woven wire fences are combined, one (1) above the other, the woven wire fences shall be overlapped at least six inches (6") and firmly attached to each other at intervals no greater than three feet (3').

5. The fence bottoms shall be installed to provide not more than three inches (3") of ground clearance for its entire length.

(B) Right-of-way.

1. The fence right-of-way shall be cleared for a minimum distance of six feet (6') on the outside of the perimeter fence and six feet (6') on the inside of the interior fencing.

2. All dead trees with a height greater than the distance to the perimeter fence shall be felled.

(C) Fence posts.

1. Fence posts shall extend at least a minimum of eight feet (8') high for interior fencing, and at least ten feet (10') high for perimeter fencing, and shall be of sufficient strength to maintain fence integrity.

2. Pine wood posts shall be treated.

3. Wood and steel pipe posts shall be set to a minimum depth of three feet (3').

4. Metal T-posts shall be installed according to manufacturers' specifications.

5. Metal U-posts shall be of a sufficient strength to support the fence.

(D) Line posts.

1. Wooden line posts shall be a minimum of four inches (4") in diameter and shall not be spaced more than twenty-four feet (24') apart.

2. Steel pipe line posts shall—

A. Be a minimum of two and three-eighths inches (2 3/8") in outside diameter; and

B. Not spaced more than twenty-four feet (24') apart.

3. Metal "T" and "U" line posts shall be spaced no more than twenty feet (20') apart.

4. If the woven wire is not high tensile, there shall be a wood-en or steel pipe post every sixty feet (60').

5. Line braces shall be used at least every one thousand feet (1000') of straight line distance and, if necessary, at shorter intervals to sufficiently support the fence.

(E) Corner and end posts.

1. Wooden corner and end posts shall be a minimum of five inches (5") in diameter.

2. Steel pipe corner and end posts shall be a minimum of two and seven-eighths inches (2 7/8") in outside diameter.

3. Corner and end posts of other materials shall be of sufficient strength to maintain fence integrity and must be approved by the department prior to installation.

4. Corner and end posts must be set in concrete and braced in a manner to sufficiently support the fence.

(F) Gates shall be—

1. Constructed to meet the specifications of the fence;

2. Equipped with at least one (1) latching and one (1) locking device; and

3. Gate support posts must be braced in a manner to sufficiently support the fence.

(G) Water gaps and stream crossings.

1. Swinging water gaps and stream crossings shall be constructed to equal or exceed the standards of the fence.

2. These crossings shall be adequate to prevent ingress and

egress during high water.

3. Permissible water gaps are as follows:

A. Swinging gates constructed to match the contour of the stream supported by a galvanized steel cable or hinge. Cable shall be a minimum of five-eighths inch (5/8") in diameter;

B. Pipe with swinging barrier;

C. Pipe with fixed mesh barrier; and

D. Heavy gauge woven barrier contoured to fit the gap.

(H) If topographic, natural, or other conditions exist that enable cervids to pass through, under, or over the fence, the permit holder shall be required to supplement the fence with additional, stronger or higher fence posts, special grading, additional wire to increase fence height, or other measures to prevent escape.

(I) Fencing shall be maintained in a condition to prevent an escape at all times.

(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.

(A) Class II wildlife shall be confined in cages, pens, enclosures, or in buildings of sufficient strength with restraints affixed to all windows, doors, or other means of entry or exit.

(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.

[[5]](6) Mobile temporary exhibit 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**, for no more than fourteen (14) days and shall meet the following criteria:

(A) Facilities 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 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 shall contain doors that are locked when unattended, but easily accessible at all times for emergency removal of the wildlife.

(C) Facilities 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 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.

(D) Venomous reptiles shall only be transported in a strong escape-proof enclosure capable of withstanding a strong impact. Enclosures shall be locked and prominently labeled with the owner's full name, address, telephone number, list of species being transported, and a sign labeled VENOMOUS.

[[6]](7) Other wildlife native to Missouri not listed in sections (2) and [[3]] (5) and in rule 3 CSR 10-9.110, and birds native to the con-

tinental United States, shall be cared for and confined in facilities that provide comparable requirements for similar size animals as listed in this rule.

[[7]](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, 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), [[3]] (5), and [[5]] (6) of this rule.

[[8]](9) Other variations from requirements of this rule shall be only as specifically authorized by the director.

APPENDIX A

CAGE, PEN OR OTHER ENCLOSURE STANDARDS FOR CLASS II WILDLIFE

3 CSR 10-9.220 [(3)](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 252.240, RSMo 2000. 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 June 13, 2014.

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 \$1,663,045 in the aggregate annually for construction of a second perimeter fence in addition to the current standard for new facilities and current facilities choosing to expand their perimeter fence. This annual aggregate cost also includes for disallowing of white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids to be confined in temporary exhibits or auction facilities. It is anticipated the size of new breeding facilities and the annual number of new Class I and Class II Wildlife Breeder Permit

applicants will vary along with the annual aggregate cost over the life of the rule and that fence costs will vary with inflation and market.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 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 10-9.220 Wildlife Confinement Standards

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:
A) 25	A) Class I Wildlife Breeders permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids	A) \$308,425
B) 1	B) Class II Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids.	B) \$12,337
C) 11	C) Big Game Hunting Preserve permit holders.	C) \$1,335,103
D) 1	D) Auction facilities with live white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids held on premises	D) \$7,180
		Total: \$1,663,045

III. WORKSHEET

A) Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids:

{[(\$3,719 expense for a class I wildlife breeder fence) + (\$7,200 expense for creek crossing) + (\$1,418 expense for 10-foot tall gates)]*(25 Class I Wildlife Breeders permit)}} =

{[\$12,337]*[25]}=

\$308,425

B) Class II Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids:

{[(\$3,719 expense for a class II wildlife breeder fence) + (\$7,200 expense for creek crossing) + (\$1,418 expense for 10-foot tall gates)]*(1 Class II Wildlife Breeders permit)}} =

{[\$12,337]*[1]}=

\$12,337

C) Big Game Hunting Preserve:

{[(\$112,755 expense for a big game hunting preserve fence) + (\$7,200 expense for creek crossing) + (\$1,418 expense for 10-foot tall gates)]*(11 number of Big Game Hunting Preserve permits)}} =

{[\$121,373]*[11]}=

\$1,335,103

D) Auction Facility:

{[(74 deer estimated to be sold) *(\$35 entry fee)] + [(21 estimated number of deer entered but not sold) *(\$10 no sale fee)] + [(6 estimated number of fawns entered and sold)*(\$200 per fawn)*(10% commission)]+ [(24 estimated number of females entered and sold)*(\$625 per doe)*(10% commission)]+ [(23 estimated number of males entered and sold)*(\$1200 per male)*(10% commission)]} =

[\$2,590]+[\$210]+[\$120]+[\$1,500]+[\$2,760]}=

\$7,180

IV. ASSUMPTIONS

- A) Class I Wildlife Breeder permit holder that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids:

Costs for an addition of a perimeter fence from the current standards using specifications of the new rule are estimated at \$7.53 per foot for a 10-foot fence. Assume the need for two 10-foot tall gates per facility at \$709 each. Assume the need for two fence crossings per facility for a typical creek at \$3600 each. A 12,875 square foot (ft²) facility is assumed for a Class I Wildlife Breeder permitted facility to hold deer. From 2009-2013 there was an average of 25 permits per year issued that were not issued the previous year for class I wildlife breeders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids.

- B) Class II Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids:

Costs for an addition of a perimeter fence from the current standards using specifications of the new rule are estimated at \$7.53 per foot for a 10-foot fence. Assume the need for two 10-foot tall gates per facility at \$709 each. Assume the need for two fence crossings per facility for a typical creek at \$3600 each. A 12,875 square foot (ft²) facility is assumed for a Class II Wildlife Breeder permitted facility to hold deer. From 2010-2014 there was an average of one permit per year issued that were not issued the previous year for class II wildlife breeders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids.

- C) Big Game Hunting Preserve:

Costs for an addition of a perimeter fence from the current standards using specifications of the new rule are estimated at \$7.53 per foot for a 10-foot fence. Assume the need for two 10-foot tall gates per facility at \$709 each. Assume the need for two fence crossings per facility for a typical creek at \$3600 each. A square 320-acre facility with flat topography is assumed for a Big Game Hunting Preserve. From 2009-2013 there was an average of 11 permits per year issued that were not issued the previous cycle (permits valid for 3 years) for Big Game Hunting Preserve permit that held deer.

- D) Auction Facility:

Cost for loss of annual sale and commission for auction facility. Assume there is one auction facility that holds and sells live white-tailed deer or mule deer in Missouri. We assume an auction entry fee of \$35, a no-sale fee of \$10, and a sale commission of 10%. The number of white-tailed deer entered, entered but not sold, and sold were based on buyer/seller list print outs from December 2012, April 2013, July 2013, and September 2013. We estimate the cost for white-tailed deer fawns, females, and males at \$200, \$625, and \$1200, respectively.

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), (3), (5), (9), (12), and (17), and add sections (18), (19), and (20) to this rule.

PURPOSE: This amendment requires new applicants for a Class I wildlife breeder permit, to hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids, to pass a written examination provided by the department and have an on-site inspection of the breeding facility as part of the application process. This amendment disallows importation of live white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids; display of white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids elsewhere than what is listed on the permit; and the construction of any new Class I and Class II wildlife breeding facilities for white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids within twenty-five (25) miles of a location where Chronic Wasting Disease (CWD)-positive animal(s) have been confirmed by the department. This amendment removes the exemption for nonresidents to acquire a Class I or Class II wildlife breeder permit to ship, transport, or consign white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids to wildlife breeders within Missouri. The amendment requires Class I and Class II wildlife breeders to test all white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids mortalities that are older than six (6) months of age for CWD; to report confirmed positive disease results to the department; and to comply with a herd disease response plan approved by the department in the event that CWD is discovered. The amendment also requires Class I and Class II wildlife breeders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids to maintain participation in a United States Department of Agriculture-approved CWD herd certification program. The amendment establishes record keeping requirements and a minimum period of time that records must be kept for all acquired white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids. The amendment establishes a stipulation that the department can require additional disease sampling and testing during disease investigations or morbidity/mortality events. Finally, this amendment requires source herds for cervids to be enrolled in a United States Department of Agriculture-approved CWD herd certification program.

CWD is a disease that infects deer and other members of the deer family. It is transmitted by prions, which are abnormal proteins that attack the nervous system, and is always fatal to the infected animal. CWD is spread both directly from deer to deer and indirectly to deer from infected soil and other surfaces. CWD prions accumulate in the brain, spinal cord, eyes, spleen, and lymph nodes of infected animals. Once well established in an area, CWD is impossible to eradicate. States with CWD must focus on limiting the spread of the disease and preventing its introduction to new areas.

Infectious diseases such as CWD threaten Missouri's deer herd, Missouri's nearly five hundred and twenty thousand (520,000) deer hunters, millions of wildlife watchers, thousands of landowners, twelve thousand (12,000) Missouri jobs, and hundreds of businesses and communities that depend on the approximately one (1) billion dollars boost in economic activity related to deer hunting and watching.

With respect to the proposed ban on importation, CWD has been confirmed in twenty-two (22) states, including Missouri, and continues to spread throughout the country. Currently, fifteen (15) states and two (2) Canadian provinces essentially have a complete ban on the importation of live cervids and seven (7) states have partial bans (Cosgrove, M. 2013. Chronic Wasting Disease and Cervidae Regulations in North America, Michigan Department of Natural Resources,

http://www.michigan.gov/documents/emergingdiseases/CWDRegstableState-Province_402847_7.pdf).

There is currently no approved live animal test for CWD. Testing can only be performed on dead animals. Additionally, there is a lag-time between infection and detection based on current methods. Therefore, it is not possible to determine the disease status of individual animals. The current federal CWD herd certification program is simply a means of reducing risk by monitoring a herd through disease testing of animals from a herd that die. It does not indicate a disease-free status for any herd and only establishes a level of risk associated with each particular herd. CWD-positive individuals continue to be found in captive cervid facilities throughout the United States despite prolonged participation in a CWD herd certification program. For example, in 2012, CWD was detected in a captive red deer in Minnesota in spite of the herd's enrollment in a CWD monitoring program for twelve (12) years. This provides support for maintaining records for fifteen (15) years and requiring that Class I and Class II wildlife breeders participate in a United States Department of Agriculture-approved CWD herd certification program. Because of the inherent limitation within the CWD herd certification program, it is critical that all captive cervid herds actively test all mortalities of individuals greater than six (6) months of age for CWD. Furthermore, requiring participation in a United States Department of Agriculture-approved CWD herd certification program adds in the ability to monitor herds, trace animals, provides communication between breeders and the department, and provides a reduction in risk of disease movement.

A ban on interstate importation of live white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids, will not eliminate all sources of stock. There are approximately two hundred eighteen (218) Class I wildlife breeders in Missouri breeding white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids.

The proposed amendment is necessary to ensure that Class I and Class II wildlife breeders possessing white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids maintain and hold the records necessary to identify and track animals. The department has determined that identification and proper documentation and record keeping on all individual white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids is imperative. Rigorous records will improve the department's ability to monitor white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids in breeding facilities and to conduct effective disease investigations. If animals are moved from a facility, these records will be necessary to trace the animal in the future if CWD is discovered at that facility or at the facility to which the animal is transported.

With respect to the proposed amendment's requirement of passing a written examination in order to receive a Class I and Class II (already required for Class II) wildlife breeder permit to hold white-tailed and mule deer, the department believes this requirement is necessary to ensure new applicants are aware of all of the applicable regulations and are knowledgeable in the health of deer. Providing a training packet and exam to applicants for a Class I and Class II wildlife breeder permits to hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids aides in educating individuals in the steps necessary to care for these animals and in disease risk reduction.

With respect to on-site inspections required as part of the permit application, this requirement is needed so that the department has the opportunity to inspect all facilities and determine if the facility complies with applicable fencing standards and other requirements prior to a permit being issued.

With respect to requiring white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids to be displayed only at the location listed on the permit, this is needed to reduce risk of becoming exposed or exposing deer to disease throughout the state. Allowing permittees to display white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids anywhere would expose the free-ranging deer of the state to unnecessary risk and reduce the

ability to track disease during disease event investigations.

With respect to removing the permit exemption for nonresidents to ship, transport, or consign white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids to wildlife breeders within Missouri, the department should hold all white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids breeders to the same standards.

With respect to the new sampling requirements for all morbidity/mortality events for white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids older than six (6) months of age, CWD testing of captive mortalities and records of those tests are imperative to the department's effort to protect the state's deer herd. The department must retain the ability to adequately monitor CWD within the state's borders. The department is requiring the samples to be taken by an accredited veterinarian to ensure proper tissue collection.

The proposed amendment requires confirmed positive disease results from white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids to be verbally reported to a conservation agent within twenty-four (24) hours, with a copy of the testing report provided to the state wildlife veterinarian within seventy two (72) hours. This requirement is necessary to ensure the department can act in a timely and efficient manner to protect the state's deer herd and also to work with other state agencies in Missouri and elsewhere to reduce the risk of spreading disease. As the state entity responsible for the health and welfare of the state's wildlife resources, the department is requiring permit holders, as a condition of their permit, to comply with a herd disease response plan approved by the department in the event a CWD positive test result is confirmed. The department will work with the permit holder and other affected state and federal agencies as necessary to develop an appropriate disease response plan that addresses the primary issues of quarantine, testing and depopulation, premises cleaning and disinfection, fencing, and restocking.

In Missouri, CWD has been confirmed in both captive and free-ranging animals. The first two (2) cases of CWD were found in 2010 and 2011 at two (2) private big-game hunting preserves in Linn and Macon counties. Following those discoveries, the first two (2) cases of CWD in free-ranging deer were confirmed in 2012 in northwest Macon County. To date, Missouri's confirmed cases of CWD total eleven (11) in captive deer from the private hunting preserves and ten (10) in free-ranging deer harvested in Macon County. Not allowing new facilities within twenty-five (25) miles of a confirmed CWD positive animal location is intended to reduce the risk of exposing more deer to the disease, which could then spread throughout the state. Published peer-reviewed studies have found that, on average, most deer do not disperse more than approximately twenty-five (25) to thirty (30) miles (Nixon, C. et al. 2007. *White-Tailed Deer Dispersal Behavior in an Agricultural Environment*. *American Midland Naturalist*, 157:212-220.; Diefenbach, D. et al. 2008. *Modeling Distribution of Dispersal Distances in Male White-Tailed Deer*. *Journal of Wildlife Management*, 72:1296-1303.). Furthermore, use of twenty-five (25) miles as a radius for a restriction zone surrounding a disease event was included in the federal CWD herd certification program when the program focused upon eradication of the disease. In addition, there is precedent within the Wildlife Code for using a restriction distance (see 3 CSR 10-9.565 (1)(A)3.C.).

(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 by the holder of the appropriate Class I or Class II wildlife breeder permit at a specific location indicated 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 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 used, sold, given away, transported, or shipped; provided, 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; 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) 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.

(9) 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.

(12) 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.

(17) **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. *[(Refer to Missouri Department of Agriculture for applicable Chronic Wasting Disease rules and 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.**

(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 protection regional 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 will include, but not be limited to, quarantine requirements, testing and depopulation, premises cleaning and disinfection, 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 fifteen (15) 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 Class I and Class II wildlife breeding facilities for white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids shall not be constructed within twenty-five (25) miles of a location where Chronic Wasting Disease-positive animal(s) have been confirmed by the department.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. 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 June 13, 2014.

PUBLIC COST: This proposed amendment will cost the Department of Conservation up to an estimated seven thousand three hundred seventy-seven dollars (\$7,377) in the aggregate for expenses in development of an initial training packet and exam. It is anticipated the cost of developing a training packet and exam may recur as needed during the life of the rule.

PRIVATE COST: This proposed amendment will cost private entities up to an estimated one hundred seventy-seven thousand one hundred fifty dollars (\$177,150) in the aggregate annually for Chronic Wasting Disease testing. It is anticipated that annual aggregate costs will vary with the number of active facilities and the number of white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids within each facility. Furthermore, it is anticipated the annual aggregate will recur over the life of the rule and will vary with inflation.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 Amendment
Rule Number and Name: 3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Conservation	\$7,377

III. WORKSHEET

{[(\$47.28 per hour labor cost)*(80 hours to develop training packet and create exam)]+[218 Class I Wildlife Breeder permits that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids]*(\$16.26 expense for training packet)]+[3 Class II Wildlife Breeder permits that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids]*(\$16.26 expense for training packet)]}=

{[\$3,783]+[\$3,545]+[\$49]}=

\$7,377

IV. ASSUMPTIONS

We estimate staff need two work weeks for development of a training packet and exam. We assume the hourly rate of \$47.28 for two staff members and one hourly technician. We estimate a cost of single training packet of \$16.26. There were 218 Class I wildlife breeder and 3 Class II wildlife breeder permit holders as of February 2014.

**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 10-9.353 Privileges of Class I and Class II 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:
A) 71	A) Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids that are not currently participating in a CWD-herd certification program	A) \$106,500
B) 3	B) Class II Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids	B) \$4,500
C) 147	C) Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids that already participate in a CWD-herd certification program	C) 66,150
		Total: \$177,150

III. WORKSHEET

- A) Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids:

{{[71 number of permit holders not in the MDA Chronic Wasting Disease Program]*[(\$150 expense for veterinarian sample and Chronic Wasting Disease test)*(10 estimated number of mortalities per year)]]=

{{[71] *[\$1,500]}=

\$106,500

- B) Class II Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids:

{{[3 number of permit holders]*[(\$150 expense for veterinarian sample and Chronic Wasting Disease test)*(10 estimated number of mortalities per year)]]=

{{[3] *[\$1,500]}=

\$4,500

- C) Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids that already participate in a CWD-herd certification program:

{{[147 number of permit holders in the MDA Chronic Wasting Disease Program]*[(\$150 expense for veterinarian sample and Chronic Wasting Disease test)*(3 estimated number of mortalities per year)]]=

{{[147] *[\$450]}=

\$66,150

IV. ASSUMPTIONS

- A) Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids that are not currently participating in a CWD-herd certification program:

There were 218 Class I Wildlife Breeder permit holders that held white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids as of February 2014. According to the Missouri Department of Agriculture (MDA) there are 147 white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids breeding facilities within their voluntary Chronic Wasting Disease program (hereafter, program). We then assume that 71 Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids are not part of the MDA program. Facilities that are part of the MDA program already conduct Chronic Wasting Disease testing. We estimate a sample for Chronic Wasting Disease testing collected by a veterinarian will be \$150. There are approximately eight facilities with 100 or greater individual deer. We assume a conservative

average of 10% mortalities per year on breeding facilities. Using those eight facilities as a base, we then estimate an average of 10 mortalities per facility in a year.

B) Class II Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids:

As of February 2014 there were three Class II Wildlife Breeders permitted to hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids. Facilities that are part of the MDA program already conduct Chronic Wasting Disease testing. We estimate a sample for Chronic Wasting Disease testing collected by a veterinarian will be \$150. There are approximately eight facilities with 100 or greater individual deer. We assume a conservative average of 10% mortalities per year on breeding facilities. Using those eight facilities as a base, we then estimate an average of 10 mortalities per facility in a year.

C) Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids that already participate in a CWD-herd certification program:

According to the Missouri Department of Agriculture (MDA) there are 147 white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids breeding facilities within their voluntary Chronic Wasting Disease program (hereafter, program). Facilities that are part of the MDA program already conduct Chronic Wasting Disease testing on individuals that are greater than 12-months old. The proposed regulation states that testing will occur on individuals greater than 6-months old. We estimate a sample for Chronic Wasting Disease testing collected by a veterinarian will be \$150. There are approximately eight facilities with 100 or greater individual deer. We assume a conservative average of 10% mortalities per year on breeding facilities. Using those eight facilities as a base, we then estimate an average of 10 mortalities per facility in a year. For the purpose of this entity cost estimate, we assume that three of those mortalities occur between the ages of 6-months and 12-months.

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 previous wording and add sections (1) and (2) to this rule.

PURPOSE: This amendment establishes a requirement for an annual herd inventory, presence of an accredited veterinarian during the annual inventory, signature of an attending accredited veterinarian on herd records, individual animal identification, and individual animal documentation, including results of Chronic Wasting Disease (CWD) testing. This amendment also sets a minimum period of time that records must be kept.

CWD is a disease that infects deer and other members of the deer family. It is transmitted by prions, which are abnormal proteins that attack the nervous system, and is always fatal to the infected animal. CWD is spread both directly from deer to deer and indirectly to deer from infected soil and other surfaces. CWD prions accumulate in the brain, spinal cord, eyes, spleen, and lymph nodes of infected animals. Once well established in an area, CWD is impossible to eradicate. States with CWD must focus on limiting the spread of the disease and preventing its introduction into new areas.

Infectious diseases such as CWD threaten Missouri's deer herd, Missouri's nearly five hundred and twenty thousand (520,000) deer hunters, millions of wildlife watchers, thousands of landowners, twelve thousand (12,000) Missouri jobs, and hundreds of businesses and communities that depend on the approximately one (1) billion dollars boost in economic activity related to deer hunting and watching.

In Missouri, CWD has been confirmed in both captive and free-ranging animals. The first two (2) cases of CWD were found in 2010 and 2011 at two (2) private big-game hunting preserves in Linn and Macon counties. Following those discoveries, the first two (2) cases of CWD in free-ranging deer were confirmed in 2012 in northwest Macon County. To date, Missouri's confirmed cases of CWD total eleven (11) in captive deer from the private hunting preserves and ten (10) in free-ranging deer harvested in Macon County. CWD has been confirmed in twenty-two (22) states, including Missouri, and continues to spread throughout the country. Currently, fifteen (15) states and two (2) Canadian provinces essentially have a complete ban on the importation of live cervids and seven (7) states have partial bans (Cosgrove, M. 2013. *Chronic Wasting Disease and Cervidae Regulations in North America*, Michigan Department of Natural Resources, http://www.michigan.gov/documents/emergingdiseases/CWDRegstableState-Province_402847_7.pdf).

While some Missouri deer breeders participate in the Missouri Department of Agriculture's CWD herd certification program, this does not indicate a disease free status. There is currently no approved live animal test for CWD, testing can only be performed on dead animals. Additionally, there is a lag-time between infection and detection based on current methods. Therefore, it is not possible to determine the disease status of individual animals. The current federal CWD herd certification program is simply a means of reducing risk by monitoring a herd through disease testing of animals from a herd that die. It does not indicate a disease free status for any herd and only establishes a level of risk associated with each particular herd. CWD-positive individuals continue to be found in captive cervid facilities throughout the United States despite prolonged participation in a CWD herd certification program. For example, in 2012, CWD was detected in a captive red deer in Minnesota in spite of the herd's enrollment in a CWD monitoring program for twelve (12) years. This supports the requirement for maintaining records for at least fifteen (15) years.

The proposed amendment is necessary to ensure that Class I and

Class II wildlife breeders possessing white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids maintain and hold the records necessary to identify and track animals. The department has determined that identification, evaluation of health, proper documentation and record keeping on all individual white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids is imperative. Rigorous identification, health, and herd inventory records will improve the department's ability to monitor white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids in breeding facilities and to conduct effective disease investigations. If animals are moved from a facility, these records will be necessary to trace the animal in the future if CWD is located at that facility or at the facility to which the animal is transported.

The presence of an accredited veterinarian during a herd inventory ensures proper evaluation of the health of the herd.

[Each Class I and Class II wildlife breeder shall maintain a 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.]

(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 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 fifteen (15) 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 252.240, RSMo 2000. 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 June 13, 2014.

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 one hundred seventy-seven thousand six hundred dollars (\$177,600) in the aggregate annually for costs of an accredited veterinarian for an inventory. It is anticipated that costs will recur over the life of the rule and will vary with the number of white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids in each facility and with inflation.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 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 10-9.359 Class I and Class II Wildlife Breeder: Records Required

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:
A) 71	A) Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids	A) \$170,400
B) 3	B) Class II Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids	B) \$7,200 Total: \$177,600

III. WORKSHEET

A) Class I Wildlife Breeder:

{{[71 number of Class I permit holders not in the MDA Chronic Wasting Disease Program]*[\$80 expense for veterinarian]*(30 estimated number of deer per facility)}}=

{{[71]*[\$2,400]}=

\$170,400

B) Class II Wildlife Breeder:

{{[3 number of Class II permit holders]*[\$80 expense for veterinarian]*(30 estimated number of deer per facility)}}=

{{[3]*[\$2,400]}=

\$7,200

IV. ASSUMPTIONS

There are 218 Class I Wildlife Breeder permit holders that held white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids in February 2014. According to the Missouri Department of Agriculture (MDA) there were 147 white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids breeding facilities within their voluntary Chronic Wasting Disease program (hereafter, program). We then assume that 112 Class I Wildlife Breeder permit holders that hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids are not part of the MDA program. Facilities that are part of the MDA program already conduct annual herd inspections with a veterinarian. As of February 2014, there were three Class II Wildlife Breeders permitted to hold white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids. We estimate the cost for an accredited veterinarian to be present during a herd inventory, involving putting hands on deer, will be an average of \$80 per deer. We estimate an average of 30 deer per facility.

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 (1) of this rule.

PURPOSE: This amendment disallows propagating, holding in captivity, and hunting hogs within a big game hunting preserve unless already approved by a specific date.

Hogs are adept at escaping fenced enclosures and are prolific breeders. Feral hog rooting and feeding behavior contribute to soil erosion, reduced water quality, and damage to crops and hay fields. Competition for food with Missouri's native species is a major concern as feral hogs forage heavily on acorns and other food sources that are critical to the survival of deer and turkeys. Feral hogs are opportunistic feeders and will also feed on the eggs of ground nesting birds and reptiles and they have been known to kill and feed on fawn deer. Feral hogs are also very destructive to sensitive natural areas like glades, fens, and springs. Feral hogs in other states are known to carry diseases such as swine brucellosis, pseudo-rabies, trichinosis, and leptospirosis. The risk of spreading diseases to people, pets, and livestock is a major concern.

(1) To maintain and operate a licensed hunting preserve and to buy, propagate, hold in captivity, hunt, and sell only legally obtained and captive-reared: pheasants, exotic partridges, quail, mallard ducks, and ungulates (hoofed animals), **except hogs may only be propagated, held in captivity, and hunted on big game hunting preserves approved specifically for hogs by the department on or before November 30, 2014.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. **and section 252.240, RSMo 2000.** This version of rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 13, 2014.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 proposes to amend paragraphs (1)(B)1. and (1)(B)4., and add paragraphs (1)(B)6., (1)(B)7., (1)(B)8., and (1)(B)9. to this rule.

PURPOSE: This amendment sets a requirement for a holder of a licensed hunting preserve permit to conduct disease testing, report

disease results, maintain movement documentation, adhere to fencing standards, and to comply with a disease response plan in the event Chronic Wasting Disease (CWD) is discovered. This amendment sets a minimum period of time that movement records must be kept. This amendment disallows use of imported cervids in a licensed hunting preserve and the construction of any new big game hunting preserve within twenty-five (25) miles of a location where a CWD-positive animal(s) have been confirmed by the department. Finally, this amendment requires source herds for cervids to be enrolled in a United States Department of Agriculture-approved CWD herd certification program.

CWD is a disease that infects deer and other members of the deer family. It is transmitted by prions, which are abnormal proteins that attack the nervous system, and is always fatal to the infected animal. CWD is spread both directly from deer to deer and indirectly to deer from infected soil and other surfaces. CWD prions accumulate in the brain, spinal cord, eyes, spleen, and lymph nodes of infected animals. Once well established in an area, CWD is impossible to eradicate. States with CWD must focus on limiting the spread of the disease and preventing its introduction to new areas.

Infectious diseases such as CWD threaten Missouri's deer herd, Missouri's nearly five hundred and twenty thousand (520,000) deer hunters, millions of wildlife watchers, thousands of landowners, twelve thousand (12,000) Missouri jobs, and hundreds of businesses and communities that depend on the approximately one (1) billion dollars boost in economic activity related to deer hunting and watching.

With respect to the proposed ban on use of cervids that have been imported into the state, CWD has been confirmed in twenty-two (22) states, including Missouri, and it continues to spread throughout the country. Currently, fifteen (15) states and two (2) Canadian provinces essentially have a complete ban on the importation of live cervids and seven (7) states have partial bans (Cosgrove, M. 2013. Chronic Wasting Disease and Cervidae Regulations in North America, Michigan Department of Natural Resources, http://www.michigan.gov/documents/emergingdiseases/CWDRegstableState-Province_402847_7.pdf).

Because there is currently no approved live animal test for CWD, there is no way to guarantee that cervids imported into the state are not infected. While many breeders participate in a state or federal CWD herd certification program, this does not indicate a disease free status for any herd. It is simply a means of reducing risk. The lag-time between infection and detection and lack of a live animal test are inherent issues of concern within any CWD herd certification program. CWD-positive individuals continue to be found in captive cervid herds throughout the United States despite prolonged participation in a CWD herd certification program. For example, in 2012, CWD was detected in a captive red deer in Minnesota in spite of the herd's enrollment in a CWD monitoring program for twelve (12) years. A ban on interstate importation of live cervids will not eliminate all sources of stock. There are approximately two hundred eighteen (218) Class I wildlife breeders in Missouri breeding white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids, in addition to numerous other cervid breeders within the state.

Current fencing standards are not sufficient to eliminate the risk of captive cervid escapes from captive facilities or the possibility of deer to deer contact through the fence. Published research from Michigan suggests that double fencing will reduce direct contact between free-ranging and captive cervids via escapes and nose to nose contact, and will likely reduce risk of transmission through indirect routes (VerCauteren, Kurt C., et al. 2007. Fence-Line Contact Between Wild and Farmed White-Tailed Deer in Michigan: Potential for Disease Transmission. *The Journal of Wildlife Management* 71:1603-1606).

This proposed amendment requires that big game hunting preserves adhere to confinement standards to hold cervids. The proposed amendment exempts facilities currently permitted by the department to hold cervids from the new fencing standards. A newly permitted facility or a current facility permitted by the department to

hold cervids which expands the current perimeter fence of that facility will be required to comply with the new fencing standards. The department listened to comments from breeders during public meetings in 2013 that the fencing standards (double fencing with the perimeter fence at ten (10) feet) would be too onerous for existing facilities. The proposed amendment represents a compromise that provides risk management into the future, while considering the burden on current facilities.

With respect to on-site inspections required as part of the permit application, this requirement is needed so that the department has the opportunity to inspect all facilities and determine if the facility complies with applicable fencing standards and other requirements prior to a permit being issued.

With respect to the new sampling requirements for all morbidity/mortality events for cervids older than six (6) months of age, CWD testing of captive mortalities and records of those tests are imperative to the department's effort to protect the state's deer herd. The department must retain the ability to adequately monitor CWD within the state's borders. The department is requiring the samples to be taken by an accredited veterinarian to ensure proper tissue collection.

The proposed amendment requires confirmed positive disease results from white-tailed deer, white-tailed deer-hybrids, mule deer, or mule deer-hybrids to be verbally reported to a conservation agent within forty-eight (48) hours, with a copy of the testing report to be provided to the state wildlife veterinarian within seventy-two (72) hours. This requirement is necessary to ensure the department can act in a timely and efficient manner to protect the state's deer herd and also to work with other state agencies in Missouri and elsewhere to reduce the risk of spreading disease. As the state entity responsible for the health and welfare of the state's wildlife resources, the department is requiring permittees, as a condition of their permit, to comply with a herd disease response plan approved by the department in the event a CWD positive test result is confirmed. The department will work with the permittee and other affected state and federal agencies as necessary to develop an appropriate disease response plan that addresses the primary issues of quarantine, testing and depopulation, premises cleaning and disinfection, fencing, and restocking.

The proposed requirement of maintaining records for fifteen (15) years is necessary for potential disease investigations. CWD-positive individuals continue to be found in captive facilities throughout the United States, despite prolonged participation in a CWD herd certification program. For example, in 2012, CWD was detected in a captive red deer in Minnesota in spite of the herd's enrollment in a CWD monitoring program for twelve (12) years.

In Missouri, CWD has been confirmed in both captive and free-ranging animals. The first two (2) cases of CWD were found in 2010 and 2011 at two (2) private big-game hunting preserves in Linn and Macon counties. Following those discoveries, the first two (2) cases of CWD in free-ranging deer were confirmed in 2012 in northwest Macon County. To date, Missouri's confirmed cases of CWD total eleven (11) in captive deer from the private hunting preserves and ten (10) in free-ranging deer harvested in Macon County. Not allowing new facilities within twenty-five (25) miles of a confirmed CWD-positive animal location is intended to reduce the risk of exposing more deer to the disease, which could then spread throughout the state. Published peer-reviewed studies have found that, on average, most deer do not disperse more than approximately twenty-five (25) to thirty (30) miles (Nixon, C. et al. 2007. *White-Tailed Deer Dispersal Behavior in an Agricultural Environment*. *American Midland Naturalist*, 157:212-220.; Diefenbach, D. et al. 2008. *Modeling Distribution of Dispersal Distances in Male White-Tailed Deer*. *Journal of Wildlife Management*, 72:1296-1303.). Furthermore, use of twenty-five (25) miles as a radius for a restriction zone surrounding a disease event was included in the federal CWD herd certification program when the program focused upon eradication of the disease. In addition, there is precedent within the Wildlife Code for

using a restriction distance (see 3 CSR 10-9.565 (1)(A)3.C.).

The Conservation Commission has constitutional authority to protect the health and integrity of the state's wildlife resources, including captive and free-ranging wildlife.

(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) for shooting 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 [height] 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 breeding enclosure(s) contained within or directly adjacent to the big game hunting preserve. 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.

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 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. [(Refer to Missouri Department of Agriculture for applicable Chronic Wasting Disease rules and regulations.)]

5. Big game hunting preserve permittees shall report escaped animals immediately to an agent of the department.

6. 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. 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 will include, but not be limited to, quarantine requirements, testing and depopulation, premises cleaning and disinfection, 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. All ungulates 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. 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 buyer and seller. The original form must accompany the shipment and a copy shall be maintained by the herd of origin for at least fifteen (15) years. Sources for cervids must be enrolled in a United States Department of Agriculture-approved Chronic Wasting Disease herd certification program.

8. New big game hunting preserves shall not be constructed within twenty-five (25) miles of a location where Chronic Wasting Disease-positive animal(s) have been confirmed by the department.

9. 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.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. 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 June 13, 2014.

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 four hundred twenty-nine thousand dollars (\$429,000) in the aggregate annually for Chronic Wasting Disease testing. It is anticipated that testing costs will recur over the life of the rule and will vary with the number of cervids within each big game hunting preserve and with inflation.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 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:
44	Big Game Hunting Preserve Permit holders	\$429,000

III. WORKSHEET

{[44 number of permit holders]*[(\$150 expense for veterinarian sample and Chronic Wasting Disease test)*(65 number of mortalities per year)]}=

{[44]*[\$9,750]}=

\$429,000

IV. ASSUMPTIONS

There are currently 44 Big Game Hunting Preserve permit holders in February 2014. We estimate a sample for Chronic Wasting Disease testing collected by a veterinarian will be \$150. Based on the number of locking leg seals issued to hunting preserves from 2009-2013, we estimate 65 harvest mortalities on a facility per year.

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 section (1) and add section (4) to this rule.

PURPOSE: This amendment establishes a requirement for more information within inventories and record keeping for cervids on big game hunting preserves. This amendment further requires a minimum period of time that records must be kept.

Chronic Wasting Disease (CWD) is a disease that infects deer and other members of the deer family. It is transmitted by prions, which are abnormal proteins that attack the nervous system, and is always fatal to the infected animal. CWD is spread both directly from deer to deer and indirectly to deer from infected soil and other surfaces. CWD prions accumulate in the brain, spinal cord, eyes, spleen, and lymph nodes of infected animals. Once well established in an area, CWD is impossible to eradicate. States must focus on limiting the spread of the disease and preventing its introduction into new areas.

Infectious diseases such as CWD threaten Missouri's deer herd, Missouri's nearly five hundred and twenty thousand (520,000) deer hunters, millions of wildlife watchers, thousands of landowners, twelve thousand (12,000) Missouri jobs, and hundreds of businesses and communities that depend on the approximately one (1) billion dollars boost in economic activity related to deer hunting and watching.

The first two (2) cases of CWD in Missouri were found in 2010 and 2011 at two (2) private big-game hunting preserves in Linn and Macon counties. Following those discoveries, the first two (2) cases of CWD in free-ranging deer were confirmed in 2012 in northwest Macon County. To date, Missouri's confirmed cases of CWD total eleven (11) in captive deer from the private hunting preserves and ten (10) in free-ranging deer harvested in Macon County. CWD has been confirmed in twenty-two (22) other states, and it continues to spread throughout the country.

While some Missouri deer breeders participate in the Missouri Department of Agriculture's CWD herd certification program, this does not indicate a disease free status. It is simply a means of reducing risk. The lag-time between infection and detection and lack of a live animal test are inherent issues of concern within any CWD herd certification program. CWD-positive individuals continue to be found in captive herds despite prolonged participation in a CWD herd certification program.

The proposed amendment is necessary to ensure that big game hunting preserves possessing ungulates maintain the records necessary to identify and track animals. The department has determined that identification, evaluation of health, proper documentation, and record keeping on all acquired ungulates is imperative. Rigorous identification, health, and herd inventory records will improve the department's ability to monitor acquired ungulates in licensed big game hunting preserves and to conduct effective disease investigations. If animals are moved from a facility, these records will be necessary to trace the animal in the future if a disease is located at that facility or at the facility to which the animal is transported.

The proposed requirement for records to be maintained for fifteen (15) years is necessary for potential disease investigations. CWD-positive individuals continue to be found in captive herds throughout the United States despite prolonged participation in a CWD herd certification program. For example, in 2012, CWD was detected in a captive red deer in Minnesota in spite of the herd's enrollment in a CWD monitoring program for twelve (12) years.

With respect to requiring big game hunting preserves that include a breeding facility to comply with regulations pertaining to those

facilities, if privileges are exercised, the same records should be required.

(1) Big game hunting preserve permittees shall keep a permanent record, by date, of 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. 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 permit must establish and maintain a 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., 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 shall be maintained on the premises of the licensed big game hunting preserve for at least fifteen (15) years and shall be subject to inspection by an authorized agent of the department at any reasonable time.**

(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 252.240, RSMo 2000. 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 June 13, 2014.

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 Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. 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 INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2150—State Board of Registration for the
Healing Arts
Chapter 9—Licensing of Anesthesiologist Assistants

PROPOSED AMENDMENT

20 CSR 2150-9.080 Fees. The board is proposing to amend subsections (1)(A), (B), (D), (H), and (I).

PURPOSE: This amendment reduces the licensure by examination, reciprocity, renewal and reinstatement fees. This amendment also

clarifies the type of the duplicate license fee for which there is a charge.

(1) The following fees are established by the State Board of Registration for the Healing Arts, and are payable in the form of a personal check, cashier's check, or money order:

(A) Licensure by Examination Fee	[\$1,000] \$300
(B) Reciprocity License Fee	[\$1,000] \$300
(D) Renewal of Certificate of Registration Fee	[\$500] \$200
(H) Duplicate Wall Hanging License Fee	\$ 30
(I) Reinstatement Fee	[\$500] \$300

AUTHORITY: section[s] 334.125, RSMo 2000, and section 334.414, RSMo Supp. [2005] 2013. Original rule filed Jan. 17, 2006, effective Aug. 30, 2006. Moved to 20 CSR 2150-9.080, effective Aug. 28, 2006. Amended: Filed July 1, 2014.

PUBLIC COST: This proposed amendment will cost state agencies approximately forty thousand three hundred dollars (\$40,300) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will save private entities approximately forty thousand three hundred dollars (\$40,300) biennially for the life of the rule. It is anticipated that the savings will recur for the life of the rule and may vary with inflation.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Registration for the Healing Arts, PO Box 4, Jefferson City, MO 65102, by facsimile at (573) 751-3166, or via email at healingarts@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.*

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 9 - Licensing of Anesthesiologist Assistants
Proposed Rule - 20 CSR 2150-9.080 Fees
 Prepared June 17, 2014 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
State Board of Registration for the Healing Arts	\$40,300	
	Total Loss of Revenue Biennially for the Life of the Rule	\$40,300

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total loss of revenue is based on the cost savings to private entities reflected in the Private Fiscal Note filed with this rule.
2. The board utilizes a rolling five-year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five-year analysis is based on the projected revenue, expenses, and number of licensees. Based on the board's recent five-year analysis, the board voted on a reduction in individual licensure, reciprocity, renewal, and reinstatement fees for anesthesiologist assistants.
3. The above figures are based on FY 2014 actuals.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 9 - Licensing of Anesthesiologist Assistants
Proposed Rule - 20 CSR 2150-9.080 Fees
 Prepared June 17, 2014 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated savings for compliance with the amendment by affected entities:
20	Licensure by Examination Fees (License Fee - \$700 decrease)	(\$14,000)
3	Reciprocity License Fees (License Fee - \$700 decrease)	(\$2,100)
80	Renewal of Certificate of Registration Fees (License Fee - \$300 decrease)	(\$24,000)
1	Reinstatement Fees (Application Fee - \$200 decrease)	(\$200)
	Estimated Annual Cost Savings for the Life of the Rule	(\$40,300)

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above for licensure by examination and renewals are based on FY14 actuals.
2. There were no requests for applications by reciprocity or reinstatement, however the board estimates three requests for reciprocity and one for reinstatement each year.
3. Travel expenses are not included in the private entity cost associated with this fiscal note due to the various geographic locations and distances of licensees.
4. It is anticipated that the total cost savings will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Note: The board is statutorily obligated to enforce and administer the provisions of Chapter 334, RSMo. Pursuant to section 334.090, RSMo the board shall by rule and regulation set the amount of fees authorized by sections 334.400 to 334.430, RSMo at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 334.400 to 334.430 RSMo.