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SALUS POPULI SUPREMA LEX ESTO

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



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI
REGISTER

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January 2, 2018 January 16, 2018	February 1, 2018 February 15, 2018	February 28, 2018 February 28, 2018	March 30, 2018 March 30, 2018
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March 1, 2018 March 15, 2018	April 2, 2018 April 16, 2018	April 30, 2018 April 30, 2018	May 30, 2018 May 30, 2018

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 www.sos.mo.gov/adrules/pubsched.

HOW TO CITE RULES AND RSMO

RULES

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

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

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

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

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

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

Code and Register on the Internet

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

The *Code* address is www.sos.mo.gov/adrules/csr/csr

The *Register* address is www.sos.mo.gov/adrules/moreg/moreg

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

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

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

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

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 20—Division of Community and Public Health Chapter 1—Food Protection

EMERGENCY AMENDMENT

19 CSR 20-1.040 Good Manufacturing Practices. The department is amending sections (1) and (2).

PURPOSE: This amendment updates state food manufacturing standards to be consistent with the U.S Food and Drug Administration's (FDA) current good manufacturing practices regulation.

EMERGENCY STATEMENT: The Missouri Department of Health and Senior Services (DHSS) regulates food manufacturers and warehouses in collaboration with the federal Food and Drug Administration (FDA). To that end, DHSS strives to maintain consistency with its federal partners to minimize hardships on industry by utilizing federal regulations and program standards. The core regulation governing food manufacturers and warehouses is known as Good Manufacturing Practices (GMPs). In 2013, DHSS adopted FDA's GMPs found in 21 CFR 110 by reference. On September 17, 2015, FDA published updated GMPs (21 CFR 117). FDA implemented staggered compliance dates for affected businesses. Small businesses (those with less than five hundred (500) full-time employees) were given two (2) years to comply with the new GMPs. Very small

businesses (businesses averaging less than one million dollars (\$1,000,000) per year (adjusted for inflation) in annual sales of human food plus the market value of human food manufactured, processed, packed, or held without sale) were given three (3) years to comply. FDA requires states that conduct contract inspections either adopt equivalent regulations or inspect under federal authority. DHSS has not adopted the updated GMPs and is currently conducting FDA-contract and non-contract inspections under the previous GMPs found in 21 CFR 110. The majority of Missouri food manufacturers and warehouses are considered small businesses and are now required to comply with the new federal GMPs. Updating this rule to include incorporation of the new GMP regulation by reference will 1) reduce industry and government confusion regarding the most applicable set of GMPs; 2) reduce industry cost of complying with two (2) sets of GMPs; 3) ensure consistency between federal and state regulatory agencies; and 4) allow the state program to continue inspecting under its own authority, thus allowing the state program to make its own decisions with regards to information sharing and enforcement. This emergency amendment is necessary to protect industry and governmental interest as federal regulations, adopted by reference by DHSS, have been modernized. Failure to adopt the updated regulations at the state level will create a situation in which industry is required to comply with new regulations at the federal level as well as dated regulations at the state level, adding undue burden and cost to the food industry. As a result, DHSS finds a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. DHSS believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed October 13, 2017, becomes effective October 23, 2017, and expires April 20, 2018.

(1) Applicability. The requirements of this rule apply to buildings or facilities, or parts thereof, used for, or in connection with, the manufacturing, packaging, [transporting] processing, or holding of human food.

(2) Standards. Manufacturers, distributors, and warehouses shall operate in accordance with 21 CFR Part [110] 117 Current Good Manufacturing Practice [in Manufacturing, Packing, or Holding], Hazard Analysis, and Risk-Based Preventive Controls for Human Food, revised as of [April 1, 2012] September 17, 2015, hereby incorporated by reference and made a part of this rule as published by the U.S. Government [Printing] Publishing Office, 732 North Capitol Street NW, Washington, DC 20401-0001, (202) 512-1800, <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

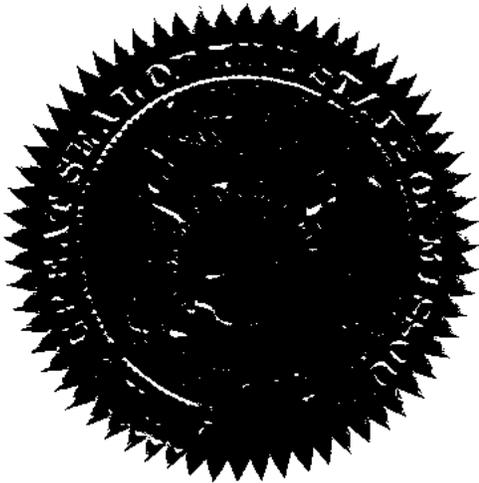
AUTHORITY: sections 192.006, 192.020, and 196.045, [RSMo 2000, and section 192.020,] RSMo [Supp. 2012] 2016. This rule was previously filed as 13 CSR 50-70.010. Original rule entitled Missouri Division of Health E 1.20 was filed Nov. 17, 1949, effective Nov. 27, 1949. Rescinded and readopted: Filed March 11, 2013, effective Sept. 30, 2013. Emergency amendment filed Oct. 13, 2017, effective Oct. 23, 2017, expires April 20, 2018. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo 2016.

EXECUTIVE ORDER 17-23

TO ALL DEPARTMENTS AND AGENCIES:

This is to advise that state offices will be closed on Friday, November 24, 2017.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 1st day of November, 2017.

Eric R. Greitens
Governor

ATTEST:

John R. Ashcroft
Secretary of State

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

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

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

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

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

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

Proposed Amendment Text Reminder.

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.050 Small Utility Rate Case Procedure. This rule provided procedures whereby certain small utilities may request increases in their overall annual operating revenues, without complying with the rules pertaining to general rate cases set forth elsewhere in this chapter.

PURPOSE: This rule is being rescinded in its entirety because the requirements have been moved to 4 CSR 240-10.075.

AUTHORITY: sections 386.040, 386.250, 393.140 and 393.290, RSMo 2000, and 393.291, RSMo Supp. 2007. Original rule filed

Nov. 15, 2007, effective May 30, 2008. Rescinded: Filed Oct. 5, 2017.

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

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

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: *Anyone may file comments in support of, or in opposition to, this proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 15, 2017, and should include a reference to Commission Case No. AX-2018-0050. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rescission is scheduled for December 21, 2017, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.*

SPECIAL NEEDS: *Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities**

PROPOSED RULE

4 CSR 240-10.075 Staff Assisted Rate Case Procedure

PURPOSE: This rule prescribes the process to be followed when the commission processes a utility rate case for certain small utilities.

(1) Definitions. As used in this rule, the following terms mean:

(A) A small utility means a gas utility serving ten thousand (10,000) or fewer customers, a water or sewer utility serving eight thousand (8,000) or fewer customers, or a steam utility serving one hundred (100) or fewer customers; and

(B) A disposition agreement is a document that sets forth the signatories' proposed resolution of some or all of the issues pertaining to a small utility rate case.

(2) This rule describes the process for small utility rate cases.

(A) In addition to the commission's provisions regarding dismissal of a case in 4 CSR 240-2.116, the commission may dismiss a small utility rate case at any time if—

1. The utility is not current on the payment of all of its commission assessments;

2. The utility fails to submit its annual report or annual statement of operating revenue; or

3. The utility is not in good standing with the Missouri Secretary of State, if applicable.

(3) Commencement. A small utility rate case may be commenced by—

(A) A letter received by the secretary of the commission from a small utility stating the amount of the requested increase in its overall annual operating revenues.

1. Any such letter need not be accompanied by any proposed tariff revisions.

2. Upon receipt of the letter, the secretary of the commission will cause a rate case to be opened and will file a copy of the letter in that case.

3. At any time before day one hundred fifty (150) of the timeline described in section (5) of this rule, the utility may submit to the secretary of the commission a letter withdrawing its previous request for an increase in its annual operating revenues. Upon receipt of such a letter, the secretary of the commission will close the rate case;

(B) A complaint filed by staff or by any eligible entity or entities pursuant to section 386.390.1, RSMo, or section 393.260.1, RSMo; and

(C) A proposed tariff stating a new rate or charge filed by a small utility pursuant to section 393.150.1, RSMo.

(4) Staff will assist a small utility in processing a small utility rate case insofar as the assistance is consistent with staff's function and responsibilities to the commission.

(5) Rate Case Timeline. Within one (1) week after a small utility rate case is opened, staff will file a timeline under which the case will proceed, specifying due dates for the activities required by this rule.

(A) Staff and the utility may agree in writing that the deadlines set out in the rate case timeline be extended for up to thirty (30) days. If an extension is agreed upon, staff shall file the agreement and an updated timeline reflecting the extension in the case file.

(6) Local public hearing. A local public hearing shall be scheduled to occur no later than sixty (60) days after the opening of the case unless staff files a notice in the case stating that all parties agree a local public hearing is not necessary.

(7) Notice. At least ten (10) days prior to a local public hearing, or upon the filing of a notice that a local public hearing is not necessary, the utility shall mail a written notice, as approved by staff and the office of the public counsel (OPC), to its customers stating—

(A) The time, date, and location of the local public hearing, consistent with the order setting the hearing, if applicable;

(B) A summary of the proposed rates and charges, the effect of the proposed rate increase on an average residential customer's bill, and any other company requests that may affect customers, if known;

(C) An invitation to submit comments about the utility's rates and quality of service within thirty (30) days after the date shown on the notice and instructions as to how comments can be submitted electronically, by telephone, and in writing;

(D) Instructions for viewing the publicly available filings made in the case via the commission's electronic filing system; and

(E) Staff will file a copy of the notice in the case file.

(8) Investigation and audit. After a small utility rate case is opened, the staff shall, and the public counsel may, conduct an investigation of the utility's request.

(A) This investigation may include a review of any and all information and materials related to the utility's cost of providing service and its operating revenues, the design of the utility's rates, the utility's service charges or fees, all provisions of the utility's tariffs, and any operational or customer service issues that are discovered during the investigation. The staff's audit and investigation will follow staff internal procedures designed to ensure reasonable consistency in the recommended rate treatment of the utility's rate base, revenue, and expenses with that of other similarly situated utilities.

(B) The investigation may include a review of the records generat-

ed since the utility's previous rate case, the case in which the utility was granted its Certificate of Convenience and Necessity, or the utility's transfer of assets case, whichever is most recent.

(C) If an investigation of the utility's request includes the submission of data request to the utility, copies of the data requests shall be provided to all parties to the case when they are submitted to the utility.

(D) The investigation shall include an update of the utility's rate base.

(E) In determining the utility's cost of service, the value of normal expense items and plant-in-service and other rate base items, for which documentation is not available, may be based upon such evidence as is available or may be estimated in order to include reasonable levels of those costs. Unusual expense or rate base items, or expense or rate base items for which the utility claims unusual levels of cost may require additional support by the utility. Nothing in this section diminishes the utility's obligation to adhere to the commission's rules regarding appropriate record-keeping.

(F) Not later than ninety (90) days after a small utility rate case is opened, the staff, and the public counsel, if conducting its own investigation, shall provide to all parties a report of its preliminary investigation, audit, analysis, and workpapers including:

1. An evaluation of the utility's record-keeping practices; and

2. A list of the cost of service items that are still under consideration with an explanation for why those items are not yet resolved.

(9) Settlement proposals.

(A) Staff's confidential settlement proposal. Not later than one hundred twenty (120) days after a small utility rate case is opened, staff, and the public counsel, if conducting its own investigation, shall provide to all parties to the case a confidential settlement proposal as follows:

1. Staff's settlement proposal will address the following subjects:

- A. The utility's annual operating revenues;
- B. The utility's customer rates;
- C. The utility's service charges and fees;
- D. The utility's plant depreciation rates;
- E. The utility's tariff provisions;
- F. The operation of the utility's systems; and
- G. The management of the utility's operations;

2. Staff's settlement proposal will include the following documents:

- A. Draft revised tariff sheets reflecting the settlement proposal;
- B. A draft disposition agreement reflecting the settlement proposal;
- C. Staff's updated workpapers; and
- D. Any other documents supporting the staff's settlement proposal;

3. OPC's settlement proposal will address the following subjects:

- A. The utility's annual operating revenues;
- B. The utility's customer rates;
- C. If applicable, the utility's service charges and fees;
- D. The utility's plant depreciation rates; and

4. OPC's settlement proposal will include the following documents:

- A. OPC's updated workpapers; and
- B. Any other documents supporting OPC's settlement proposal.

(B) Any settlement proposal, including any draft disposition agreement, and all supporting documents attached thereto are strictly intended for settlement negotiations only. If staff and the utility are unable to reach a full or partial settlement via disposition agreement, neither party is bound to any position stated or implied by the settlement proposal, draft disposition agreement, or supporting documents provided.

(C) Not later than ten (10) days after staff provides its settlement proposal, the public counsel, the utility, and any other parties to the case shall notify staff whether they agree with the proposal or, if not, provide any suggested changes and the reasoning for those changes to the parties. Any party suggesting changes shall provide to all other parties any audit workpapers, rate design workpapers, or other documents in its possession that support its suggestions.

(10) At any time prior to the filing of a disposition agreement, any party may request the assigned regulatory law judge meet with the participants and mediate discussions to assist them in reaching at least a partial agreement.

(11) Disposition agreement.

(A) Not later than one hundred fifty (150) days after a small utility rate case is opened, staff shall file one (1) of the following:

1. A disposition agreement between at least staff and the utility providing for a full resolution of the small utility rate case;

2. A disposition agreement between at least staff and the utility providing for a partial resolution of the small utility rate case and a motion requesting that the case proceed to an evidentiary hearing; or

3. A motion stating that agreements cannot be reached on any of the issues related to the small utility rate case and asking that the case proceed to an evidentiary hearing.

(B) If the disposition agreement provides for a full resolution of the small utility rate case and is executed by all parties, the utility will submit to the commission, within five (5) business days of staff's filing, new and/or revised tariff sheets bearing an effective date of not fewer than thirty (30) days later, to implement the agreement.

(C) If the disposition agreement filed by staff provides for a full resolution of the small utility rate case but is not executed by all parties, the utility will submit to the commission concurrent with staff's filing new and/or revised tariff sheets, bearing an effective date that is not fewer than forty-five (45) days after they are filed, to implement the agreement.

(D) No later than five (5) business days after the filing of a full or partial disposition agreement that is not executed by all parties, each non-signatory party shall file a pleading stating its position regarding the disposition agreement and the related tariff revisions and providing the reasons for its position. If the non-signatory party intends to ask that the case be resolved by evidentiary hearing, it must do so in this pleading. If a disposition agreement is not executed by all parties, and a hearing is requested, then no party is bound to any position stated or implied by the disposition agreement or supporting documents if the company determines it no longer wants to pursue positions in the disposition agreement.

(E) If any party requests an evidentiary hearing where the disposition agreement filed by staff provides for a full resolution of the small utility rate case and is executed by at least the utility and staff, either the utility or staff may present evidence in support of the disposition agreement.

1. If the utility requests to be excused from participating as a party in such an evidentiary hearing through a utility representative's affidavit submitted by staff or a motion submitted by the utility, the regulatory law judge may grant that request and issue a notice in the case file that the request has been made and granted. However, representatives of the utility may still be called as witnesses by other parties.

(12) Evidentiary hearing procedures.

(A) Any party may file a request for an evidentiary hearing. A request for an evidentiary hearing shall include a specified list of issues that the requesting party believes should be the subject of the hearing.

(B) Once such a request is filed, the regulatory law judge will issue a procedural schedule designed to resolve the case in the time remaining in the small utility rate case process, consistent with the requirements of due process and fairness to the parties and the utility's

customers and will suspend the utility's pending tariff revisions, if any, pending completion of the hearing.

(13) The small utility rate case shall be wholly submitted to the commission for decision not later than two hundred forty (240) days after the small utility rate case is opened in order for the commission's report and order regarding the case to be effective not later than two hundred seventy (270) days after the small utility rate case is opened.

(14) The commission must set just and reasonable rates, which may result in a revenue increase more or less than the increase originally sought by the utility, or which may result in a revenue decrease.

(15) Waiver of Provisions of this Rule. Provisions of this rule may be waived by the commission for good cause shown.

AUTHORITY: sections 386.040, 386.250, 393.140, 393.290, and 393.291, RSMo 2016. Original rule filed Oct. 5, 2017.

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

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

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of, or in opposition to, this proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before December 15, 2017, and should include a reference to Commission Case No. AX-2018-0050. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for December 21, 2017, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 1—Organization; General Provisions**

PROPOSED AMENDMENT

7 CSR 10-1.010 Description, Organization, and Information. The Missouri Highways and Transportation Commission is adding new paragraphs (2)(B)11. and (2)(B)14., deleting paragraph (2)(B)17., and renumbering as needed.

PURPOSE: This amendment updates the department's organizational structure consistent with the department's current business practices as required by section 536.023, RSMo.

(2) Organization.

(B) Divisions. MoDOT pursues its mission through the following divisions:

1. Audits and Investigations is responsible for conducting audits of department operations, external contracts, grant agreements, motor carrier fuel tax returns, and apportioned registrations. The division also investigates: fraud, waste, and abuse; employee grievances; Equal Employment Opportunity complaints; conducts mediations; and analyzes competitive bidding practices;

2. Bridge is responsible for the structural design and detailed plans production for all state highway bridges, including cost estimates and site-specific job special provisions. Additional responsibilities include maintaining the National Bridge Inventory, recommending load posting limits for both state and non-state bridges, bridge inspection, and analyzing structures for special superload overweight permit loads traveling within the state;

3. Communications is responsible for disseminating information on the activities of the commission and MoDOT to the public and to MoDOT personnel. Communications coordinates customer comments to MoDOT through public involvement meetings, customer service representatives, and surveys. Communications helps MoDOT communicate with news media through news releases and personal contact. Communications creates strategies statewide and through MoDOT's districts that educate and inform stakeholders through the web, social media, presentations, video, publications, displays, and other mediums;

4. Construction and Materials is responsible for administering construction contracts awarded by the commission. Contracts are awarded through the competitive bid or design build selection process, and then work is assigned to project offices geographically located throughout the state. Engineers and technicians make owner/engineering decisions, verify contract compliance through testing and inspection, and complete and review documentation necessary to authorize payment. Construction and Materials is responsible for testing to ensure the materials used for maintenance and construction of our transportation system meet the quality standards and specifications;

5. Design is responsible for the location, environmental, and cultural resource studies required for initial evaluation of proposed projects; detailed route studies, ground surveys, and aerial photography; and design and plan preparation including cost estimates for the state transportation projects. Design advertises and makes all preparations for receiving bids for transportation project contracts including the development of specifications and cost estimates prior to advertising for bids. Design is also responsible for acquisition of right of way required for the construction and maintenance of all state highways in addition to properties incidental to the system of state highways in Missouri, and provides relocation assistance for all persons displaced by the commission's right of way acquisition. Design administers the disposal or lease of land considered excess to commission needs and the regulation of outdoor advertising billboards and junkyards adjacent to regulated state highways. Design administers the Scenic Byway Program;

6. Equal Opportunity and Diversity is responsible for directing the department's Affirmative Action Program and other initiatives aimed at achieving and maintaining a diverse workforce;

7. External Civil Rights is responsible for directing the department's external affirmative action, equal opportunity, and nondiscrimination programs, which include the Disadvantaged Business Enterprise Program, On-the-Job Training Program, Equal Employment Opportunity, Title VI, Americans with Disabilities Act (ADA), and all other nondiscrimination or affirmative action programs related to federal-aid contracting activities;

8. Financial Services is responsible for providing administrative support to MoDOT in accounting, financial reporting, and policy development, building and maintaining an effective system of internal controls, and cost accounting. Financial Services is also responsible for coordinating financial resources and spending plans through forecasting, analysis, and training. Financial Services also performs financial planning and fiscal analysis, budget, federal aid management, and innovative finance administration functions for the department;

9. General Services is responsible for supporting MoDOT activities by providing guidance and support services in the areas of facilities management, procurement, inventory management, fleet management, and equipment repair;

10. Governmental Relations is responsible for acting as MoDOT's liaison between Missouri's congressional delegation, the Missouri Legislature, and local political subdivisions. Staff members review and analyze proposed transportation-related legislation affecting MoDOT and provide either support or options for improving the legislative proposals and public policies impacting the traveling public. Governmental Relations staff also serve as a liaison between MoDOT and national transportation associations;

11. Highway Safety and Traffic is responsible for the safe and efficient movement of people and goods on the state highway system. This includes supporting signing, striping, traffic signals, lighting, intelligent transportation systems (ITS), roadway access, and safety management programs throughout the state. Highway Safety and Traffic is responsible for the coordination of traffic management, incident management, traveler information services, and the radio and emergency communication systems; and is also responsible for planning, directing, and coordinating the solicitation, review, award, and monitoring of federal highway safety grant contracts and concentrates their efforts in the areas of education, enforcement, and engineering to prevent deaths and injuries from motor vehicle accidents;

11./12. Human Resources is responsible for continually developing and improving human resources' processes that support MoDOT and its employees in contributing to a quality transportation system. Responsibilities include nationally recruiting college graduates for placement throughout the state and administering employee development programs, personnel policies, the department's pay system, and personnel records;

12./13. Information Systems is responsible for providing and improving information and communication services used by employees of MoDOT through the operation and maintenance of local and statewide data networks and telephone services. Information Systems staff provide applications programming expertise to support the engineering, financial, operational, and general information needs of MoDOT;

14. Innovative Partnerships and Alternative Funding is responsible for assisting in the assessment and implementation of technological innovations impacting the state highways and state transportation systems; and analyzing alternative funding proposals including design-build, public-private partnerships, and other initiatives where allowed under federal and state law.

13./15. Maintenance is responsible for assisting and supporting maintenance activities for the preservation and operation of the state highway system;

14./16. Motor Carrier Services provides information, credentials, and permits and enforces safety for businesses and individuals interested in commercial property and passenger-carrying operations on public highways in and through Missouri;

15./17. Multimodal Operations is responsible for administering state and federal programs that support and develop non-highway passenger and freight transportation, which include aviation, railroads, transit, and waterways. Major programs include capital improvements, operating support, technical assistance, safety outreach, and identifying freight efficiencies/opportunities;

16./18. Risk and Benefits Management is responsible for the management and implementation of medical and life insurance plans for department employees and retirees; administration of MoDOT's self-insurance operations, including workers' compensation, fleet liability, general liability, and property damage recovery; and administration of the safety and health programs; **and**

17. **Traffic and Highway Safety is responsible for the safe and efficient movement of people and goods on the state highway system. This includes supporting signing, striping, traffic signals, lighting, intelligent transportation**

systems (ITS), roadway access, and safety management programs throughout the state. Traffic and Highway Safety is responsible for the coordination of traffic management, incident management, traveler information services, and the radio and emergency communication systems; and is also responsible for planning, directing, and coordinating the solicitation, review, award, and monitoring of federal highway safety grant contracts and concentrates their efforts in the areas of education, enforcement, and engineering to prevent deaths and injuries from motor vehicle accidents; and

[18.]19. Transportation Planning is responsible for planning and coordinating a long range, total transportation system for MoDOT. This includes developing the long range transportation plan; developing, coordinating, and tracking the five- (5-) year Statewide Transportation Improvement Program; mapping; collecting, managing, and analyzing data to provide a single source of information to support MoDOT's decision process related to maintenance, construction, and reconstruction of the state transportation system; leading organizational performance management, including the production of MoDOT's quarterly performance management document, Tracker; and facilitating process improvement, customer satisfaction, and problem solving teams to improve operational performance.

AUTHORITY: section 536.023, RSMo 2016. Original rule filed Oct. 14, 1976, effective March 1, 1977. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 6, 2017.

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

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

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

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

PROPOSED AMENDMENT

7 CSR 10-7.010 Distribution of Funds Appropriated to the Missouri Elderly and Handicapped Transportation Assistance Program. The Missouri Highways and Transportation Commission is adding a new subsection (2)(A), renumbering subsections (2)(A) through (2)(D) accordingly, and amending subsections (1)(A) and (1)(C), and sections (1) and (3).

PURPOSE: This proposed amendment changes the rule to reflect the current practice of the department.

(1) Criteria. The following criteria [shall] is to be used to distribute state financial assistance to eligible transportation providers under section 208.260, RSMo:

(A) Eligibility. **Applicants must—**

1. [Applicants must m]Meet one (1) of the following criteria:

A. Be incorporated as a not-for-profit corporation in Missouri under the provisions of Chapter 355, RSMo; or

B. Engage the services of a not-for-profit corporation, County

Sheltered Workshop or Developmental Disability Services under the provisions of sections 205.968–205.972, RSMo, or Senior Citizens Service Fund Tax under the provisions of sections 67.990–67.995, RSMo[.];

2. [Applicants must s]Show availability of federal, local or private funds for the project under application[.];

3. [Applicants' total operating costs must] **Show that their total operating costs exceed their total operating revenues**, including all dues, membership fees and all other sources of operating revenue[.]; **and**

4. [Costs shall be] **Show that its costs are limited to operating costs specifically for transporting elderly and handicapped persons;**

(C) Federal, local and private funds will be matched with program funds to defray transportation operating losses for approved applicants by the following procedures:

1. When an organization receives federal funds from a state agency and a cash match is required, the commission will provide the cash match [required];

2. If federal funds are received directly from a federal agency and no state program or agency is involved, the commission will provide one-half (1/2) of any cash match, required by the federal program with the remaining one-half (1/2) being provided from other sources; and

3. The commission will match local or private funds on a dollar-for-dollar basis.

(2) Applications, Awards, and Disbursements.

(A) Fifty percent (50%) of the funds appropriated under section 208.260, RSMo shall be distributed to Area Agencies on Aging as that term is defined in section 192.2005, RSMo using the formula described in subsection (1)(B).

[(A)](B) Applications will be accepted through March 31 each year.

[(B)](C) Applications will be processed through June 15 each year.

[(C)](D) Announcements of financial assistance to applicants will be made by June 30 each year.

[(D)](E) Awards will be made for a period of twelve (12) months beginning on July 1 of each year. Disbursements will be made monthly on a reimbursable basis subject to the above conditions.

(3) Information. Information regarding the Missouri Elderly and Handicapped Transportation Assistance Program may be obtained from the transit section in the [Office of the Assistant for Transportation, State Highway and Transportation Building] **Multimodal Operations Division, P[.JO].] Box 270, Jefferson City, MO 65102 [(314) 751-2523].**

AUTHORITY: section 208.265, RSMo [1986] 2016. This rule was previously filed as 14 CSR 10-2.010. Original rule filed Dec. 1, 1976, effective March 11, 1977. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 12—Scenic Byways**

PROPOSED AMENDMENT

7 CSR 10-12.010 Scenic Byways. The Missouri Highways and Transportation Commission is amending sections (1), (3), and (4), deleting section (2), and renumbering as necessary.

PURPOSE: This amendment removes unnecessary language already existing in state law.

(1) The Missouri Highways and Transportation Commission (commission) may designate a road or highway under its jurisdiction as a scenic byway based upon consideration of the factors [outlined in section (2)] in section **226.798, RSMo**.

[(2) The commission shall consider the following factors in designating a road or highway as a scenic byway:

- (A) Highway design which preserves and protects the natural beauty or scenery of the area;
- (B) Significant scenic, natural, historical, cultural, or recreational resources in the area;
- (C) Adequate land area to accommodate safe enjoyment of scenic attractions;
- (D) Compatibility of the scenic byway with recreational, aesthetic, and environmental management needs of the area; and
- (E) Presence of existing protected areas near or adjacent to the scenic byway such as national forests or federal or state parkland.]

[(4)](2) If the commission designates a road or highway under its jurisdiction as a scenic byway, it may implement protective measures to preserve and protect the designated road which may include[, but shall not be limited to]:

- (A) Acquisition of scenic easements;
- (B) Controlled access; and
- (C) Landscaping.

[(4)](3) The commission may remove any road or highway under its jurisdiction from the state system of scenic byways after consideration of the factors outlined in section [(2)] **226.798, RSMo** and determination that the road or highway no longer merits designation as a scenic byway.

AUTHORITY: sections 226.020, 226.130(2), [227.030, and] 226.797–226.799, and 227.030, RSMo [2000] 2016. Emergency rule filed April 5, 1993, effective April 15, 1993, expired Aug. 3, 1993. Emergency rule filed July 30, 1993, effective Aug. 9, 1993, expired Nov. 29, 1993. Original rule filed April 5, 1993, effective Dec. 9, 1993. Amended: Filed Jan. 9, 2014, effective Aug. 30, 2014. Amended: Filed Oct. 6, 2017.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, MO 65102 or Pamela.Harlan@modot.mo.gov. To

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 12—Scenic Byways**

PROPOSED AMENDMENT

7 CSR 10-12.020 Application Procedures. The Missouri Highways and Transportation Commission is amending section (2) and the Purpose Statement.

PURPOSE: This amendment simplifies the application procedure in the rule and directs interested parties to the department's website to obtain information on the application submission process.

PURPOSE: This rule provides the public with the [required] application procedures necessary to nominate a road or highway for scenic byway designation.

(2) Application. [One (1) original and eight (8) copies of the application package for nominating a road or highway for official scenic byway designation should be sent to the Missouri Department of Transportation, Attention: Scenic Byways Advisory Committee, PO Box 270, Jefferson City, MO 65102. This package should be in a typed eight and one-half inches by eleven inches (8 1/2" X 11") paper format and include the following in the order presented:] **Information on the application submission process and the information to be included in an application can be found on the Missouri Department of Transportation website at <http://www.modot.org/scenicbyways/> or by sending a written request to the Missouri Department of Transportation, Attention: Scenic Byways Advisory Committee, PO Box 270, Jefferson City, MO 65102.**

[(A) The application should include a cover letter which requests nomination for scenic byway designation of the identified route and describes the benefits to state and local communities of such designation. Local support letters from the community may also be included;

(B) A table of contents for the application package should be included;

(C) A data sheet should be included which consists of:

1. Date of application;
2. Contact name and name of the nominating individual or organization;
3. Address, phone and fax numbers;
4. Route name and number;
5. Total mileage of the proposed scenic byway;
6. Communities adjacent to the proposed scenic byway (cities/counties/towns); and
7. Paragraph containing reasons for scenic byway designation;]

[(D)](A) [Beginning and ending locations of the proposed byway should be clearly identified on an official state or county map. Supplementary hand drawn maps may also be included to define features or points of interest. Distance from all] **The application should include a detailed description of the proposed location and relevant historic significance, including points of interest [to] of the proposed byway [should be indicated];, including:**

[(E) Descriptions of any or all of the following points of interest should be provided:]

1. Cultural/historical/archeological;
2. Recreational resources;

3. Natural or scenic resources;
4. Seasonal aspects (fall foliage, etc.); and
5. Special events which occur along the route[;].

[(F) A brief overview of the history of the area and sites which relate to the proposed byway's history is also recommended;

[(G) Indicate how areas adjacent to the proposed byway are zoned including all commercial and industrial areas;

[(H) Photographs in plastic covers of the area should be included. Videos or slides are also acceptable; and]

[(I)](B) Each application should include [A]a corridor management plan that provides the community's vision of the proposed byway and outlines a process of commitment to specific strategies and actions to manage the route over time. [Guidelines for preparing a corridor management plan can be obtained from the Missouri Department of Transportation.]

[1. An action plan should be included in the corridor management plan. This action plan should provide general goals for a five (5)-year period and more specific goals for the first year. This action plan should include timelines and schedules for the following:

A. Protection for the maintenance of points of interest, scenic, and historic qualities of the proposed byway;

B. Proposed improvements or developments along the route and any promotional or marketing activities;

C. Proposed public involvement allowing for local participation in the development of the corridor management plan; and

D. Availability of financial resources with which to upgrade, develop, promote, and otherwise make the scenic corridor available for its intended uses. If no funding is currently available, indicate how the applicant plans to locate funding sources.

2. Biennial reports of the progress of the corridor management plan shall be required to be submitted to the Missouri Highways and Transportation Commission by the applicant and affected governing bodies.]

AUTHORITY: sections 226.020, 226.150, 226.797, 226.798, and 226.799, RSMo [2000] 2016 and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240. Original rule filed April 10, 1996, effective Oct. 30, 1996. Amended: Filed Jan. 9, 2014, effective Aug. 30, 2014. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 12—Scenic Byways**

PROPOSED AMENDMENT

7 CSR 10-12.030 Nomination Review Process. The Missouri

Highways and Transportation Commission is amending sections (1), (5), (6), (7), (8), (9), (10), (11), and (12); deleting section (13) and renumbering section (14).

PURPOSE: This amendment removes unnecessary requirements in the nomination review process not found in state statute and eliminates the requirement of a biennial review.

(1) Initial Screening. The Missouri Department of Transportation *[shall perform an]* **is responsible for the** initial screening of all nomination application packages. The completeness and accuracy of the application and the zoning of the proposed byway is reviewed.

(B) If the application package appears complete, the Missouri Department of Transportation shall:

1. *[s]*Send a letter to all affected governing bodies in the proposed byway area informing them of the nomination and requesting zoning information and a letter of intent.*]; and*

[(C) The Missouri Department of Transportation shall also]

2. *[c]*Compile a report on the proposed byway including traffic, accident, and other pertinent safety data.

(5) Rating Scale. This evaluation *[shall also]* include results of a matrix rating scale used for prioritization of proposed scenic byways. This rating scale is available from the Missouri Department of Transportation, Attention: Scenic Byways Advisory Committee, PO Box 270, Jefferson City, MO 65102, **or by visiting** <http://www.modot.org/scenicbyways/>.

(6) SBAC Recommendation. Following initial review, SBAC shall then either—

(B) Notify applicant of needed corrections *[and]*. *[t]*The applicant *[shall have]* **has ninety (90) days from receipt of notification** to resubmit the corrected application.

(7) Notice of Intent. **Upon SBAC recommendation,** *[T]*the Missouri Department of Transportation *[shall then]* provides written notice of its intent to designate the road or highway as a scenic byway to newspapers of general circulation in the area(s) affected and to the governing body of each county and each municipality that has jurisdiction over all or part of the route.

(B) Within ninety (90) days after the receipt of the notice from the department, each governing body of each county or municipality, after such hearing, shall approve or reject the proposed byway designation.*[The governing body shall]*, notify the Missouri Department of Transportation of its approval or rejection, and submit a summary of the public hearing to the Missouri Department of Transportation.

(C) Support from all governing bodies is necessary for the nomination process to continue. If the proposed byway is under the joint jurisdiction of two (2) or more municipalities, or one (1) or more municipalities and one (1) or more counties, or two (2) or more counties, scenic byway designation for that portion of the route *[shall not]* **cannot** occur until the governing bodies of all affected municipalities and the county commissions of all affected counties approve of such designation.

(8) Final SBAC Review. SBAC *[shall]* **is responsible to review** *[for final recommendation]* all information including the application package and summary of the public hearing **prior to making a final recommendation.**

(A) If the nomination is approved, *[SBAC shall present]* the proposed byway **is presented** to the Missouri Highways and Transportation Commission for final approval and official designation as a scenic byway; or

(B) If the nomination is not approved, SBAC *[shall notify]* **notifies** the applicant of deficiencies and the applicant *[shall have]* **has** ninety (90) days to correct such deficiencies.

(9) Approval or Rejection by Commission. The final step in the nomination process is to receive approval or rejection from the Missouri

Highways and Transportation Commission. The commission may, by commission minute, approve the designation of the road or highway as a scenic byway if the commission determines the road or highway will promote a continuous system of scenic byways for the public health and welfare. If the commission rejects such nomination, the applicant *[shall be]* is given ninety (90) days after receipt of the commission's rejection to correct any deficiencies in the nomination.

(10) Agreement Following Designation. After official designation as a scenic byway by the Missouri Highways and Transportation Commission, a written agreement between the commission and affected governing bodies *[shall be]* is required. *This agreement shall* and includes:

(11) Signs. The Missouri Department of Transportation *[shall produce and install]* manufactures and installs standard signs along all state scenic byways. Additional signs may be purchased and installed by affected governing bodies subject to department approval.

(12) Outdoor Advertising. Upon official designation by the commission, no new advertising devices which are visible from the highway may be erected, except the following exceptions provided in section 226.520, RSMo *[(1994)]*:

[(13) Biennial Review Process. The SBAC shall review all biennial reports submitted by affected governing bodies. Such reviews shall ensure that the governing bodies are maintaining provisions included in the initial written agreement and corridor management plan. If the byway—

(A) Still meets scenic byway standards as provided in section (4) of this rule, the route shall retain its designation as a scenic byway; or

(B) Contains deficiencies, affected governing bodies shall be notified and shall have ninety (90) days in which to correct such deficiencies.]

[(14)](13) Periodic Review. Designated byways are subject to periodic review by the Missouri Highways and Transportation Commission with emphasis on the implementation of measures to ensure maintenance and enhancement of their scenic, historical, cultural, recreational, and natural features. Failure to maintain and protect the scenic appearance of a byway may result in termination of official designation by the commission.

AUTHORITY: sections 226.020, 226.150, 226.797, 226.798, 226.799, and 226.801, RSMo [2000] 2016 and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240. Original rule filed April 10, 1996, effective Oct. 30, 1996. Amended: Filed Jan. 9, 2014, effective Aug. 30, 2014. Amended: Filed Oct. 6, 2017.

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

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

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

Title 7—DEPARTMENT OF TRANSPORTATION Division 10—Missouri Highways and Transportation Commission Chapter 17—Supplemental Guide Sign Program

PROPOSED AMENDMENT

7 CSR 10-17.020 Definitions. The Missouri Highways and Transportation Commission is amending sections (1) through (46).

PURPOSE: This amendment proposes elimination of unnecessary restrictive words, updates to existing definitions for clarity, adds new definitions, and makes editorial changes for clarity.

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

(1) "Advance TODS Sign" *[shall mean]* – a Tourist Oriented Directional Signing (TODS) sign placed in advance of the normal TODS sign.

(2) "Alternate fuel" *[shall mean]* – a fuel type other than gasoline or diesel that can be used to power a vehicle on the highway and includes, but is not limited to, ethanol blended gasoline (E-85), biodiesel (B-20), Compressed Natural Gas (CNG), *[or]* propane, or electric vehicle charging (EV).

(3) "Cave" *[shall mean]* – a state approved cave which has complied with all necessary requirements of the Division of Labor Standards' Mine Inspection Section and possesses a current certificate of annual inspection furnished and approved by that division.

(4) "College Emblem Sign" *[shall mean]* – a supplemental guide sign displaying emblem panels of up to six (6) colleges or universities meeting the criteria in this rule on emblem panels. **Up to two (2), three (3), or six (6) college emblem panels may be displayed on a sign with the sign size being based solely on the potential number of schools that may request signs at a given interchange.**

(5) "College Traffic Generator Sign" *[shall mean]* – a supplemental guide sign displaying the name and logo of up to three (3) colleges or universities meeting the criteria in this rule.

(6) "Commercial *[a]*Activity" *[shall mean]* – any business or service activity generally recognized as commercial by zoning authorities in this state.

(7) "Commission" *[shall mean]* – the Missouri Highways and Transportation Commission.

(8) "Crossroad" *[shall mean]* – the roadway that intersects the main roadway.

(9) "Department" *[shall mean]* – the Missouri Department of Transportation.

(10) "Emblem Panel" *[shall mean]* – a panel which may display the name, logo, or a combination of both for a college or university meeting the criteria in this rule which is attached to a mainline sign or ramp sign or on a stand-alone trailblazer sign.

(11) "Exit Ramp" or "*[r]*Ramp" *[shall mean]* – the connective

roadway between the mainline and the crossroad at an interchange.

(12) “Expressway” *[shall mean]* – a divided highway with limited numbers of at-grade accesses.

(13) “Fee” *[shall mean]* – the amount of money assessed a qualified entity for participation in one (1) of the signing programs, which is paid prior to signs being installed.

(14) “First *[c]*Connection” *[shall mean]* – the sign location in advance of the intersection where motorists turn off of the state highway system to arrive at the destination being signed for.

(15) “Freeway” *[shall mean]* – a divided highway where access is fully controlled by interchanges.

(16) “General Service *[Logo plaque] Sign*” *[shall mean]* – a sign with white legend on blue background depicting the standard symbol for an alternate fuel. *The design shall meet that meets* the department’s standards.

(17) “Gore” *[shall mean]* – the area immediately beyond the divergence point of the mainline highway and the exit ramp bounded by the edges of those traveled ways.

(18) “Interchange” *[shall mean]* – an intersection that connects two (2) or more interconnecting roadways through the use of one (1) or more grade separations that provides for the movement of traffic between the interconnecting roadways on different elevations allowing uninterrupted flow of the mainline highway.

(19) “Intersection” *[shall mean]* – the at-grade crossing of two (2) public roadways where the intersecting roadways are at the same elevations and are controlled by regulatory signs or traffic signals.

(20) “Interstate” *[shall mean]* – the national system of interstate and defense highways located in Missouri as officially designated by the Missouri Highways and Transportation Commission in accordance with Title 23 of the *United States Code*, Sections 101 and 103, which is incorporated by reference and made a part of this rule as published by the United States Government *[Printing] Publishing Office*, 732 North Capitol Street, NW, Washington, DC 20401-0001, effective October 1, *[2012] 2016*. This rule does not incorporate any later amendments or additions.

(21) “Logo Panel” *[shall mean]* – a panel which may display the name, brand, symbol, trademark, or a combination of these of a qualified entity which is attached to a mainline sign or ramp sign or serves as a stand-alone trailblazer sign when a directional arrow is installed below it.

(22) “Logo Program” or “Logos” *[shall mean]* – a specific service signing *[or a signing, which] program that* provides directional signing to businesses which offer motorist services (gas, food, lodging, camping, and twenty-four- (24-) hour pharmacy) and tourist attractions *[in the state of Missouri meeting the criteria of this rule]*.

(23) “Mainline Highway” or “mainline” *[shall mean]* – the primary travel lanes of the interstate, freeway, or expressway.

(24) “Mainline Sign” *[shall mean]* – the sign installed in advance of an interchange along the mainline of an interstate, freeway, or expressway informing motorists what services or attractions are accessible from that particular interchange.

(25) “Motorist Services” *[shall mean]* – a business which provides one (1) or more of the following services: gas, food, lodging, camp-

ing, or twenty-four- (24-) hour pharmacy. **Signing for *[M]*motorist *[S]*services *[shall only be associated with] is limited to* the Logo and TODS programs. *The business must also meet and meets* the following criteria:**

(A) Gas and diesel vehicular service stations shall provide fuel, oil, water, air, restroom facilities, drinking water, a telephone available *[for] to the public [use] for emergencies*, and be in continuous operation at least twelve (12) hours a day, seven (7) days per week. Alternate vehicle fuels availability at these sites can be displayed as a secondary message at the bottom of a Logo panel or within the *[legend of the] TODS sign legend [on a TODS sign]*. If this information cannot be displayed as part of the Logo or TODS sign, it may be displayed as a general service *[logo plaque] sign* placed below the gas Logo mainline and ramp signs or below the TODS sign for the facility offering the alternate fuel. A maximum of two (2) *[plaques] signs* may be displayed below a TODS sign, one (1) attached to each of the TODS sign posts. When general service *[logo plaques] signs* are used, the fuel station shall be within three (3) miles of the interchange, located along the crossroad of the interchange, be clearly visible from the crossroad, *[and] with* the availability of the alternate fuel *[shall be]* clearly identified on the on-premise signing of the fuel station. The distance to the service fuel station *[shall] will* be displayed along with the general service logo where the distance is greater than one (1) mile;

(B) Electric Vehicle Charging (EV) sites shall be equipped with level two (2) or level (3) systems compatible with all electric vehicles, have the capacity to charge a minimum of two (2) vehicles at the same time, and be available to any user regardless if the user is a patron of the site offering the EV charging station. EV availability may be displayed as a supplemental message at the bottom of a Logo panel or within a TODS sign legend for any of the program categories as long as the site meets all the minimum qualifications for the category;

[(B)](C) Food and restaurant facilities shall be approved and/or licensed by the state or political entity having jurisdiction and be in continuous operation to serve a minimum of two (2) meals a day (breakfast, lunch, and/or dinner), six (6) days a week, *[and]* be open to the public a minimum of *[twelve (12)] ten (10)* hours per day. *The facility must,* have accommodations to seat a minimum of twenty (20) guests at tables indoors or a minimum of ten (10) drive-up ordering/eating stations. *They must also,* and provide restroom facilities and a telephone available *[for] to the public [use] for emergencies;*

[(C)](D) Lodging, motel, and hotel facilities shall be approved and/or licensed by the state agency or political entity having jurisdiction *[and provide adequate sleeping accommodations and], have a minimum of ten (10) rooms and sufficient off street parking, have telephones [availability] available for public use. The facility must have a minimum of ten (10) rooms and sufficient off street parking. The facility shall,* and be open twenty-four (24) hours a day, seven (7) days a week;

[(D)](E) Camping and campground facilities shall be approved and/or licensed by the state agency or political entity having jurisdiction, *[and] provide modern sanitary facilities and drinking water. They must also,* provide a minimum of twenty (20) camping and parking spaces. *The facilities shall,* and be open twenty-four (24) hours a day, seven (7) days a week for a minimum of six (6) consecutive months per year. Signing for campgrounds operated on a seasonal basis will be covered with a blue background aluminum panel of appropriate size or removed from the sign during the off season; and

[(E)](F) Twenty-four- (24-) hour pharmacies shall be continuously operated twenty-four (24) hours per day, seven (7) days per week, and *[shall] have* a state-licensed pharmacist on duty at all times.

(26) “Owner” *[shall mean]* – the holder of a fee title or the holder of a leasehold estate from the owner of real property representing the qualified entity.

(27) “Participation [a]Agreement” *[shall mean]* – a contract between the program manager and each eligible entity participating in the programs outlined in this rule.

(28) “Primary College/University Site” - the site that represents the institutional home of a college/university located in the state of Missouri, but not meeting the definition of the traditional college campus.

[(28)](29) “Program [m]Manager” *[shall mean]* – a person representing the company awarded the administrative services contract for the purpose of operating the Logo, TODS, and Traffic Generator Programs and is authorized by the department to sign a participation agreement for marketing, management, installation, and maintenance of signs for these programs in accordance with these rules.

[(29)](30) “Qualified Entity” *[shall mean]* – a site that meets one (1) of the following categories and meets all of the criteria listed in this rule:

- (A) A tourist oriented activity;
- (B) A motorist service;
- (C) A state or federal agency which owns and operates a site offering recreational activities, sites of historical significance, or manages public lands open to the public;
- (D) A state-operated correctional facility;
- (E) A Welcome Center Affiliate; and
- (F) A college or university, satellite campus, or community college which offers face-to-face classroom education as the primary purpose of the site.

[(30)](31) “Ramp Sign” *[shall mean]* – the supplemental guide for the Logo or Traffic Generator Program installed along the interchange ramp providing directional information for each service or attraction accessible from that particular interchange.

[(31)](32) “Ramp Terminal” *[shall mean]* – the intersection of the exit ramp and the crossroad.

[(32)](33) “Rural Area” *[shall mean]* – an area in which the population is **equal to or** less than five thousand (5,000) persons.

(34) “Satellite College/University Site” – a branch site of a college/university that is physically located at a distance from the primary university or college. The primary campus may be located in a different city or state from the traditional college/university campus or the primary college/university site.

[(33)](35) “Second [c]Connection” *[shall mean]* – the sign location in advance of the intersection or interchange where motorists turn to access the state highway where first connection signing is provided.

[(34)](36) “Specific Service [s]Sign” *[shall mean]* – a supplemental guide sign displaying Logo panels for specific businesses that provide eligible motorist services or tourist attractions as outlined in this rule.

[(35)](37) “Standard” *[shall mean]* – the department’s Standard Plans for Highway Construction and/or Standard Specifications for Highway Construction and/or policies found in the Engineering Policy Guide.

[(36)](38) “Third [c]Connection” *[shall mean]* – the sign location in advance of the intersection or interchange where motorists turn to access the state highway where second connection signing is provided.

[(37)](39) “TODS Program” or “TODS” *[shall mean]* – Tourist

Oriented Directional Signing, a signing program, which provides directional signs to tourist oriented activities and motorist services in the state of Missouri meeting the criteria of this rule.

[(38)](40) “TODS [s]Sign” *[shall mean]* – a sign displaying the name of qualified entities that provide eligible tourist attractions or motorist services as outlined in this rule displayed as a stand-alone sign or as part of a TODS sign assembly.

[(39)](41) “Tourist Attraction” *[shall mean]* – a tourist oriented activity *[which means]* where the site’s **primary function, or offering, is as a natural phenomenon, historic site, cultural site, [recreational site] museum, educational site, [museum,] area of natural beauty, [or commercial activity] recreational site or memorial monument** as defined below, **and** a major portion of whose income or visitors are derived during the normal business season from motorists. Attendance in any consecutive twelve- (12-) month period shall meet or exceed the minimum requirements established in this rule for the Logo, TODS, or Traffic Generator programs. *Tourist attractions shall* **and** be open for business at least four (4) hours per day, at least five (5) days per week[,], **with at least one (1) [of which must be a] day being a Saturday or Sunday** unless otherwise indicated in this rule, have public restroom facilities, and a minimum of ten (10) parking accommodations.

(A) “Natural phenomenon” *[shall mean]* – a feature created by nature. Examples may include, but are not limited to, unusual rock formations, caves, geysers, or waterfalls.

(B) “Historic site” *[shall mean]* – a structure, site, or district that has definite historical significance and shall be listed on the National Register of Historic Places.

(C) “Cultural site” *[shall mean]* – any facility for the performing arts, exhibits, or concerts that is open to all age groups.

(D) “Museum” *[shall mean]* – a facility open to the public at least one hundred (100) days per year, in which works of artistic, historical, or scientific value are cared for and exhibited to all age groups.

(E) “Educational site” *[shall]* - **sites which** include:

1. “Zoological” or “botanical park” *[shall mean]* – a facility in which living animals, insects, or plants are kept and exhibited to the public;

2. “Facility tours” *[shall mean]* – regularly scheduled tours of plants, factories, working farms, or institutions where the tours are conducted on a regularly scheduled daily basis for the general public without the need for reservations conducted during normal working hours of the facility. Tours shall be a minimum of thirty (30) minutes in duration. *Tours shall*, be educational in format, informing the public how the products from the facility are produced or grown. *The availability of tours shall*, **and** be made known to the general public by posting the information on the facility website, pamphlets and brochures, or anywhere the hours of operation for the facility can be found. Retail outlets who do not fabricate or grow their products do not qualify; and

3. “Wineries” or “breweries” *[which qualify in the educational category shall mean]* – a licensed site which produces a minimum of five hundred (500) gallons of wine and/or beer per year, which is open to the public for guided tours, tasting, *[and]* sells a minimum of one hundred (100) days per year. *The tours shall*, **and** meet the requirements defined under “facility tours.”

(F) “Area of natural beauty” *[shall mean]* – a naturally occurring area of outstanding interest to the general public. Examples may include, but are not limited to, state or national parks, wilderness areas, lakes, rivers, canyons, or similar areas.

(G) “Recreational [s]Site” *[shall]* - **sites which** include:

1. “Recreational area” *[shall mean]* – an area that includes, but is not limited to, bicycling, boating, fishing, swimming, hiking, rafting, picnicking, snowmobiling, cross country skiing, or snow skiing;

2. “Amusement parks” *[shall mean]* – a permanent area which

is open to the general public offering entertainment including, but not limited to, games, rides, and/or food services for all ages and is in operation more than three (3) consecutive months per year;

3. "Arenas" *[shall mean]* – a stadium, sports complex, auditorium, fairgrounds, civic or convention center, or racetrack which have at least seating for five thousand (5,000) people holding public events open to all groups on at least one hundred (100) days of the year;

4. "Golf course" *[shall mean]* – a facility open to the public and offering at least nine (9) holes of play[.]; *[Miniature golf courses, driving ranges, and indoor golf shall not be eligible; and]*

5. "Sports complex" - an outdoor facility offering a large group of fields and/or courts where multiple games can be played at the same time. These complexes typically support one (1) or more of, but not limited to, the following sports: soccer, baseball, softball, basketball and/or tennis; and

[5.]6. "Excursion gambling boat" *[shall mean]* – a boat, ferry, or other *[floating]* facility licensed by the gaming commission on which gambling games are allowed.

(H) "Memorial Monuments" - a statue, obelisk, landmark, or other structure which commemorates a person, group, or event of regional, state, or national significance. Memorial monument sites shall meet the minimum qualifications of the TODS, Logo, or Traffic Generator program to qualify for a supplemental guide sign.

(42) "Traditional College/University Campus" - the land on which the institutional home of a college/university and its related buildings are situated. The campus will be comprised of a series of buildings on one (1) piece of property owned and operated by the college/university, typically in a park-like setting. The buildings will serve as, but not limited to, administration, classrooms, labs, auditoriums, and/or stadiums. Garages, maintenance buildings, or other buildings not supporting education are not considered related buildings to qualify as a campus.

[(40)](43) "Traffic [g]enerator" *[shall be]* – a qualified entity meeting the criteria of a tourist attraction, but not including, *[motorist services,]* golf courses[,], or excursion gambling boats[,], which meet the criteria of this rule].

[(41)](44) "Traffic Generator Program" *[shall mean]* – a supplemental guide sign program, which provides guidance to qualified entities, schools, governmental agencies, and colleges *[meeting the criteria in this rule]*.

[(42)](45) "Traffic Generator Sign" *[shall mean]* – a supplemental guide displaying the name and logo, when permissible in this rule, of the qualified entity *[meeting the criteria in this rule]*.

[(43)](46) "Trailblazer [s]Sign" *[shall mean]* – a sign with an arrow and site name/logo information which provides directional information for any necessary turns from the furthest extent of the signing to the qualified entity's location. Legal, off-premises, directional outdoor advertising may be substituted for trailblazer signs if erected prior to the installation of a Logo or TODS sign.

[(44)](47) "Urban Area" *[shall mean]* – an area in which the population is greater than five thousand (5,000) persons.

[(45)](48) "Visible" *[shall mean that the message or advertising content of a sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign shall be considered visible even though the message or advertising content may be seen but not read.]* – an unobstructed view of the on premise sign of a site by a motorist who is able to see and recognize the site as the destination they are

seeking in sufficient time to safely make the necessary maneuvers to access the facility.

[(46)](49) "Welcome Center Affiliate" *[shall mean]* – a local chamber of commerce, a local convention and visitor bureau, or an institution of higher education with an established tourism curriculum which serves to increase the number of welcome centers in Missouri without expending state funds meeting the criteria of this rule.

AUTHORITY: Art. IV, section 29, Mo. Const., section 226.535, RSMo [2000] 2016 and 23 United States Code Section 131(f). Material in this rule originally filed as 7 CSR 10-9, 7 CSR 10-17, and 7 CSR 10-22. Original rule filed Nov. 14, 2014, effective June 30, 2015. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 17—Supplemental Guide Sign Program**

PROPOSED AMENDMENT

7 CSR 10-17.030 Administration. The Missouri Highways and Transportation Commission is amending sections (1) through (12).

PURPOSE: This amendment proposes the elimination of unnecessary restrictive words and editorial changes for clarity.

(1) This rule outlines the eligibility requirements to participate in the various signing programs. *[The construction, installation, and maintenance of the signs shall be in accordance with the "Supplemental Signing Program Rules" located in the department's Engineering Policy Guide.]*

(2) Signs covered in this rule only apply to commission roadways and sites located within the State of Missouri unless otherwise specified in this rule.

(3) Requests for participation in the Logo, Tourist Oriented Directional Signing (TODS), or Traffic Generator Programs *[must]* are to be submitted to the program manager by the owner or authorized representative of a qualified entity.

(5) No qualified entity may discriminate or be discriminated against with regard to race, color, religion, sex, age, handicap, or national origin. Each qualified entity identified by a Logo, TODS, or Traffic Generator sign shall have furnished written and notarized certification to the program manager of its conformity with all applicable federal, state, and local laws, ordinances, rules and regulations, and *[shall]* not be in breach of that certification.

(6) A qualified entity *[shall]* **will** enter into a participation agreement with the program manager.

(7) Signs may be removed after notification by certified mail a minimum of thirty (30) days in advance of permanent removal of a qualified entity's sign[,] for any of the following *[and no fees shall be refunded]* reasons:

(D) A sign removed for any of the reasons in subsections (7)(A)–(7)(C) *[shall]* **will** be charged a department approved fee for re-/installation. **All fees paid by the qualified entity are not subject to refund.**

(8) If a business is closed due to fire, accident, remodeling, or other emergency for more than seven (7) days, but not more than ninety (90) days, the sign *[shall]* **will** be covered to prevent inconveniencing the traveling public. The sign owner *[shall]* **will** not lose *[its]* **their** priority or *[be required]* **need** to reapply prior to the normal expiration of its contract. Extensions of time beyond ninety (90) days may be granted; however, an owner who, due to his/her own negligence, fails to open within the ninety- (90-) day period, may lose his/her priority to occupy the space on the right-of-way. The participation agreement will not be extended due to fire, accident, remodeling, or other emergency.

(9) The fee to be paid *[shall]* **will** be equal to the fees established by the department. A participation agreement with the qualified entity *[shall]* **will** be executed for a term specified in each program. If an applicant chooses to not pay the fees agreed upon in the participation agreement, all signs will be removed from the commission right-of-way.

(10) At the end of their business season, a qualified entity not open year[-] round *[shall]* **will** have their sign taken out of service with a "Closed" panel placed on their traffic generator sign(s), place a "Closed" panel and cover with a blue panel, or the program manager *[shall]* **will** have the authority to remove their TODS or Logo sign.

(A) A qualified entity which has not received a sign(s) due to insufficient space *[shall]* **will** not utilize the space made available by a qualified entity's sign which has been removed during the off-season.

(B) A fee, approved by the commission, *[shall]* **will** be assessed to take a sign in and out of service.

(11) No reimbursement *[shall be]* **is** allowed to any participating qualified entity due to road closures or detours established for any reason.

(12) The commission reserves the right to approve all sign installation locations, modify said sign(s) when necessary to comply with changed standards that might be promulgated or adopted, and/or permanently remove the sign(s) at any time, in its sole discretion, for any reason whatsoever, including for the convenience of the commission or if the commission determines removal is *[required]* **necessary** for a highway or transportation project. In the event the commission removes the sign pursuant to the terms of this rule, the commission will not refund any portion of the original payment from the qualified entity.

AUTHORITY: Art. IV, section 29, Mo. Const., section 226.535, RSMo [2000] 2016 and 23 United States Code Section 131(f). Material in this rule originally filed as 7 CSR 10-9, 7 CSR 10-17, and 7 CSR 10-22. Original rule filed Nov. 14, 2014, effective June 30, 2015. Amended: Filed Oct. 6, 2017.

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

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

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

Title 7—DEPARTMENT OF TRANSPORTATION Division 10—Missouri Highways and Transportation Commission Chapter 17—Supplemental Guide Sign Program

PROPOSED AMENDMENT

7 CSR 10-17.040 Requirements for Tourist Oriented Directional Signing [Requirements]. The Missouri Highways and Transportation Commission is amending the title and sections (1) through (5).

PURPOSE: This amendment proposes the elimination of unnecessary restrictive words, reinstating the minimum attendance requirement that was inadvertently left out of the current rule as previously drafted, and editorial changes for clarity.

(1) A qualified entity eligible for Tourist Oriented Directional Signing (TODS) signs shall meet the criteria as a tourist attraction or a motorist service (not including twenty-four- (24-) hour pharmacies) as defined in this rule, **have a minimum annual attendance of two thousand (2,000) visitors in a consecutive twelve- (12-) month period**, and signing will be limited to the following distances from the site:

(2) If the installation of a TODS sign directing traffic onto a non-state route at an intersection is determined to be necessary by the program manager, the program manager *[shall]* **will** contact the appropriate local jurisdiction who owns the roadway and obtain written consent for such TODS installation. If permission for erecting trailblazing signs cannot be obtained from the appropriate local authorities, that qualified entity shall not be eligible for TODS at that intersection.

(3) Where both TODS and Logo trailblazer signing would be authorized at the same intersection, the TODS signs *[shall]* **will** incorporate the *[required]* information from, and be used in place of, the Logo trailblazer sign.

(5) Only those qualified entities not plainly visible to the driver proceeding on the crossroad will be considered for trailblazing signs. When the program manager determines trailblazer signs are *[required]* **needed**, all trailblazing signs *[shall]* **will** be erected prior to erecting the intersection signs.

AUTHORITY: Art. IV, section 29, Mo. Const., sections 226.020, 226.130, and 226.525, RSMo [2000] 2016. Material in this rule originally filed as 7 CSR 10-9, 7 CSR 10-17, and 7 CSR 10-22. Original rule filed Nov. 14, 2014, effective June 30, 2015. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 17—Supplemental Guide Sign Program**

PROPOSED AMENDMENT

7 CSR 10-17.050 [Requirements for] Logo Signing. The Missouri Highways and Transportation Commission is amending the title, sections (1) through (8).

PURPOSE: This amendment proposes the elimination of unnecessary restrictive words, reinstating the minimum attendance requirement that was inadvertently left out of the current rule when it was previously amended, clarification language pertaining to logo display for gas/convenience stores, and editorial changes for clarity.

(1) **To participate in the Logo signing program, [A/a] qualified entity must be a tourist attraction or provide one (1) or more of the following services: gas, food, lodging, camping, twenty-four- (24-) hour pharmacy, [or be a tourist attraction meeting the criteria found in this rule to be eligible to participate in the Logo signing program] and have a minimum annual attendance of five thousand (5,000) visitors in a consecutive twelve- (12-) month period.**

(A) Specific service signs shall be erected only for a qualified entity located within three (3) miles of the interchange as measured along the path from the interchange to the qualified entity. The measurement starting from the intersecting centerlines of the freeway and crossroad at the interchange to the nearest edge of the business structure projected at a right angle to the roadway centerline. If the capacity of the existing individual service sign for a specific business is not fully utilized, a successive three- (3-) mile increment may be considered for that specific type business on a temporary basis until the space is requested by a qualified entity within the initial three- (3-) mile distance. The qualified entity occupying the space on a temporary basis will remain in place to the end of its annual participation agreement. Existing signs shall not be made larger or new signs installed to make room for qualified entities beyond the initial three- (3-) mile distance. The maximum distance allowed for each category from the interchange is equal to—

1. Gas, food, and lodging services - six (6) miles;
2. Camping services or tourist attractions - fifteen (15) miles; and
3. Twenty-four- (24-) hour pharmacies - three (3) miles.

(B) Locations for mainline, ramp, and trailblazer signs **[must] will be approved by the department.**

(C) Messages, symbols, and trademarks which resemble any official traffic control device **[shall] are not to be used.**

(D) If Logo spaces for any of the service categories mentioned in this rule remain available, then the department, at its discretion, may permit other qualifying entities in the same service category meeting the majority of the criteria to utilize the otherwise unused spaces. Those qualified entities that participate, but do not fully qualify for the program, **[shall] will be reevaluated on an annual basis.** At that time, should there be a request from a fully qualifying entity to participate, the fully qualifying entity **[shall] will be given priority over a less than fully qualifying entity when considering renewal of contracts.**

(2) When more than six (6) qualified entities of the same motorist service type wish to participate in the Logo program at the same interchange, up to six (6) Logo panels for this motorist service type may be installed, or roll over, onto a second specific service sign if the second specific service sign is empty or can be subdivided as stated in the supplemental signing program rules. No more than twelve (12) Logo panels for one (1) type of motorist service **[shall] will be displayed at a single interchange on a maximum of two (2) specific service signs.** The qualified entities occupying space on the second specific service sign may remain in place until such time as the space is needed by other qualified entities of other motor service types not currently displayed at the interchange choose to participate in the Logo program at that interchange. When this occurs, the qualified entities which rolled over onto the second specific service will remain in place until their participation agreement expires.

(3) If the requests to place Logo panels on specific service signs exceed the available space, the following criteria **[shall] will be used to determine the allocation of spaces:**

(B) The first six (6) qualified applicants for gas, food, lodging, camping, tourist attractions, and pharmacies **[shall] will be selected to place their Logo panels on the specific service sign.** When a tourist attraction and another motor service type are combined on a single specific service sign, the first three (3) qualified tourist attractions and first three (3) of the other motor service type that share the same specific service sign **[shall] will be selected;**

(C) Once all allowed similar type businesses are posted on the specific service sign at an interchange, other similar type businesses that are on the waiting list that are closer to the interchange **[shall] will have priority over the business furthest from the interchange that is also on the waiting list; and**

(4) If trailblazer signs are **[required] needed** for qualified entities, they **[shall] will be installed at the same time or prior to the installation of the Logo panel on the mainline and ramp signs.** The program manager **[shall] will determine if trailblazer signs are necessary, and the department will approve locations, if appropriate.**

(5) Where both Tourist Oriented Directional Signing (TODS) and Logo trailblazer signing would be needed at the same intersection, the TODS signs **[shall] will incorporate the needed information from, and be used in place of, the Logo trailblazer sign.**

(6) Mainline Logo signs **[shall] will be located on the freeway mainline between the first advanced guide sign and the exit guide sign.**

(7) Ramp signs **[shall] will be located along the freeway interchange ramp after the gore and before the ramp terminal.**

(8) Logo panels **[shall] will be constructed and installed as follows:**

(A) Only a qualified entity's name, brand name, trademark, corporate logo, or commercial symbol shall be used. Logo and word messages shall not both be displayed on the Logo unless otherwise permitted in this rule. If a nationally, regionally, or locally recognized commercial symbol, corporate logo, or trademark is available, it should be used in preference to any other form of business identification. The department has the right to review and approve or deny the requested design—

1. The logo panel for a gas station/convenience store may display names, brand names, trademarks, corporate logos, commercial symbols, or other words, signs or symbols representing the brand of motor fuel and the convenience store name so long as the same or substantially similar words, signs, or symbols are permanently displayed on the business and are the same or substantially similar to the business name, business entity, or the doing business as "dba" name as registered with the Missouri Secretary of State's office. **If the fuel brand name is different than the convenience store name, the fuel brand shall be displayed in the predominate position (top or left of the**

logo panel) and represent no less than fifty percent (50%) of the logo area; and

2. The federal regulation on this issue, as interpreted by Federal Highway Administration (FHWA) guidance, suggests that blended logo panels are not allowed; however, the language of the federal regulation appears to allow this compromise so long as both logos are contained in the business name, business entity, or “dba.”

(B) Logo panels *[shall]* **cannot** display a message which advertises a product rather than identifying a business. Any exception must be approved by the department. On gas Logo panels, diesel, ethanol or E-85, Biodiesel or B20, Compressed Natural Gas or CNG, Propane, or Food Mart text may be included as a secondary message in the lower portion of the Logo panel; and

AUTHORITY: Art. IV, section 29, Mo. Const., section 226.535, RSMo [2000] 2016 and 23 United States Code Section 131(f). Material in this rule originally filed as 7 CSR 10-9, 7 CSR 10-17, and 7 CSR 10-22. Original rule filed Nov. 14, 2014, effective June 30, 2015. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 17—Supplemental Guide Sign Program**

PROPOSED AMENDMENT

7 CSR 10-17.060 *[Requirements for] Traffic Generators.* The Missouri Highways and Transportation Commission is amending the title and sections (2) through (10).

PURPOSE: This amendment proposes the elimination of unnecessary restrictive words, a five- (5-) mile increase in the maximum signing distance permitted, changes to the college signing program to comply with recent legislation, and editorial changes for clarity.

(2) Traffic generator signing *[shall]* **cannot** be installed at an interchange which connects to another freeway. No interchange to interchange signing is permitted.

(3) Traffic generator signs *[shall]* **cannot** be erected at an interchange where one (1) exit ramp splits into two (2) or more ramps before connecting to the crossroad.

(4) Traffic generator signs *[shall]* **cannot** be erected in an area where there is less than three-quarters (3/4) of a mile between interchange gore points when measured in one (1) direction or as approved by the department.

(5) Signs may be provided on each freeway located within *[fifteen (15)]* **twenty (20)** miles of the traffic generator in a rural area or

within five (5) miles in an urban area as measured along the path from the interchange/intersection to the traffic generator. The distance is measured along the path starting from the intersecting centerlines of the interchange/intersection and the crossroad and ends at the nearest edge of the traffic generator projected at a right angle to the roadway centerline.

(6) The qualified entity is responsible for working with the local jurisdiction to install any additional trailblazer signs that may be *[required]* **needed** off of the state system before the signs are installed on the state highway.

(7) Tourist Oriented Traffic Generator. To be considered eligible as a tourist oriented traffic generator a qualified entity must meet the definition of a tourist oriented attraction, *meaning the definition in this rule, and must also* **in this rule as well as** meet the following criteria:

(A) *[The qualified entity shall h/]***Have** a minimum annual attendance of two hundred thousand (200,000) in rural areas, two hundred and fifty thousand (250,000) in urban areas, and three hundred thousand (300,000) in the St. Louis and Kansas City metropolitan areas; **and**

(B) *[Shall b/]***Be** open for business at least four (4) hours per day, at least five (5) days per week, *[,]* **with** one (1) *[of which must be]* **day being** a Saturday or Sunday, *[and]* be fully operative and open to the traveling public for a minimum of three (3) months each year unless otherwise indicated in this rule, have public restroom facilities, **and** have sufficient on premise parking to accommodate all visitors; *and*].

[[C)] **The qualified entity shall meet the criteria for a tourist oriented attraction specified in this rule.]**

(8) College Generator. To qualify for college generator signs a qualified school shall meet all the definitions of this rule *[and must also meet]* **as well as** the following criteria:

(A) *[The school shall b/]***Be** a traditional *[four- (4-) year college, theological school, or seminary]* **college/university campus;**

(B) The qualifying school site and the courses taught at the school *[shall be]* **are** accredited by an organization recognized by the U.S. Department of Education or by the Council for Higher Education. The department will determine the eligibility of each school;

(C) *[The qualifying school shall provide]* **Offer** a minimum of a **two- (2-) year associates degree and/or a four- (4-) year bachelor's degree or a master's degree;**

(D) *[The qualifying school shall b/]***Be** the primary campus *[of]* **for** the college/university;

[[E)] **Two- (2-) year colleges, community colleges, professional/ technical schools, or satellite campuses do not qualify for college generator signing;**

(F) **The qualifying school shall provide on campus student housing;]**

[[G)](E) **[The qualifying school shall offer traditional, f/]**Face-to-face classroom settings between students and faculty *[as a]* **will be the** primary source of education. Web-based or telecommunication centers do not meet this requirement;

[[H)](F) **College generator signs [shall]** only provide guidance to the primary school campus. *[Signing to i/]*Individual schools on or off campus (i.e. school of engineering, nursing, etc.), research parks, or research farms *[shall]* **do not [be provided]** **qualify for signs;**

[[I)](G) **Qualifying schools may choose to participate in college emblem signing in lieu of college generator signing;**

[[J)](H) **If third connection does not reach an interchange, the signing will begin at the third connection and the signing will consist of college generator trailblazer signs only;**

[[K)](I) **[The qualifying school shall h/]**Have a minimum of five hundred (500) registered students attending face-to-face classes on campus. The department *[shall]* **may** acquire the three- (3-) year

average attendance from the Department of Higher Education or the school may provide a notarized letter attesting to their average face-to-face enrollment for the specific site being signed for;

[(L)](J) The logo for the school *[shall]* be only to be displayed on the mainline sign; and

[(M)](K) No qualified school may participate in more than one (1) type of college *[traffic generator]* signing program off of a given state highway.

(9) College Emblem Signing. To qualify for college emblem signs a qualified school shall meet all the definitions of this rule *[and must also meet]* as well as the following criteria:

(A) *[The qualifying school shall be a minimum of a two- (2-) year college, community college, or satellite campus]* Be a primary college/university site or a satellite college or university site;

(B) The qualifying school site and the courses taught at the school *[shall be]* are accredited by an organization recognized by the U.S. Department of Education or by the Council for Higher Education. The department will determine the eligibility of each school;

(C) *[The qualifying school shall provide]* Offer a minimum of a two- (2-) year associate's degree **and/or four- (4-) year bachelor's degree;**

(D) *[The qualifying school shall offer traditional, f]Face-to-face classroom settings between students and faculty [as a] is* the primary source of education. Web-based or telecommunication centers does not meet this requirement;

(E) College emblem signs *[shall]* only provide guidance to the primary school campus. *[Signing to i]Individual schools on or off campus (i.e. school of engineering, nursing, etc.), research parks, or research farms [shall] do not [be provided] qualify for signs;*

(G) *[The qualifying school shall h]Have* a minimum of one hundred (100) registered students attending face-to-face classes on campus. The department *[shall]* may acquire the three- (3-) year average attendance from the U.S. Department of Higher Education or the school may provide a notarized letter attesting to their average face-to-face enrollment for the specific site being signed for; *[and]*

(H) No qualified school may participate in more than one (1) type of college *[traffic generator]* signing program off of a given state highway~~./.~~; **and**

(I) If only one (1) school is displayed on a college emblem sign, that school has the option to display their school name in text, with no logo, instead of being displayed on an emblem panel. The college emblem sign size will remain the same size in either case. If additional schools need to be displayed on the college emblem sign, the original school display will revert to the emblem format in order to accommodate the display of additional schools.

(10) State and Federal Agency. State and federal agency traffic generators are required to meet the criteria in this rule for traffic generators, but do not have a minimum annual attendance requirement. State and federal agency traffic generators *[shall be]* are limited to—

(C) Federal agency traffic generators *[shall be limited to recreational sites, including] include*, but are not limited to, recreational sites, historic sites, forests, river accesses, campgrounds, and lakes, which are operated by U.S. Corp of Engineers, U.S. Forest Service, U.S. Fish and Wildlife, or National Park Service.

AUTHORITY: section 226.525, RSMo [2000] 2016 and 23 U.S.C. section 131. Material in this rule originally filed as 7 CSR 10-9, 7 CSR 10-17, and 7 CSR 10-22. Original rule filed Nov. 14, 2014, effective June 30, 2015. Amended: Filed Oct. 6, 2017.

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 enti-

ties more than five hundred dollars (\$500) in the aggregate.

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 18—Contractor Disqualification for Misconduct
PROPOSED AMENDMENT**

7 CSR 10-18.020 Causes for Disqualification. The Missouri Highways and Transportation Commission is amending subsections (1)(B), (1)(F), and (1)(G), and adding new subsection (1)(H) and section (2).

PURPOSE: This proposed amendment adds safety findings to the list of possible causes of disqualification and authorizes the conduct of officials, employees and other persons and entities associated with a contractor to be imputed to that contractor if certain criteria are met.

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

(1) Causes for Disqualification. Disqualification may be imposed for any of the following:

(B) *[Reason for believing that collusion exists among the bidders]* A preponderance of the evidence that shows collusion exists among the bidders;

(F) Making or receiving kickbacks or payments of currency or any item of value in order to obtain or retain any contract or payment thereunder, or in return for an agreement to make or for the making of any false statements or material misrepresentations or omissions of fact to any federal, state, or local governmental agency or private firm relevant to contract compliance; *[or]*

(G) Suspension, debarment, or other disqualification of the contractor, or determination that the contractor is not a responsible bidder for public contracting purposes, by any federal, state, or local governmental agency~~./.~~; **or**

(H) Occupational Safety and Health Administration (OSHA) violations categorized as willful, and/or a documented history of serious and/or repeated violations that resulted in serious injury or death per Title 29, Code of Federal Regulations, Sections 1910-1990, which is incorporated by reference and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington D.C. 20402-0001, website: <http://bookstore.gpo.gov>, on July 1, 2017. This rule does not incorporate any subsequent amendments or additions of this rule.

(2) Imputed Conduct. Any contractor that receives payment as a result of a commission contract may not assert as a defense to the department's disqualification action against such contractor that the conduct of any person, officer, director, partner, employee,

agent, or individual associated with such contractor in performing work under the contract should not be imputed to such contractor, if such conduct—

(A) Occurred within the course and scope of the person, officer, director, partner, employee, agent, or individual's relationship with the contractor during the time such contractor was under contract with the commission; and

(B) Was illegal under any federal, state, or local law or illegal under any federal or state rule, or violated the contractor's obligations to the commission under the contract. The contractor's receipt of payment under a commission contract including any illegal or unsatisfactory conduct, or the contractor's intent to obtain payment for such conduct, may be used as evidence by the commission of the contractor's knowledge, approval, or acquiescence of such conduct.

AUTHORITY: Art. IV, section 29, Mo. Const., sections 226.020, 226.130, 226.150, 227.030, 227.100, and 227.210, [RSMo (1994), 226.130,] RSMo [(Cum. Supp. 1996)] 2016 and Title 49 Code of Federal Regulations part 29. Original rule filed Dec. 12, 1996, effective June 30, 1997. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 27—David's Law Signing**

PROPOSED AMENDMENT

7 CSR 10-27.020 Eligibility [Requirements]. The Missouri Highways and Transportation Commission is amending the title and sections (1), (2), and (3).

PURPOSE: This amendment proposes editorial changes for clarity and removal of restrictive language.

(1) A sign may only be installed in memory of an individual who died in Missouri as a result of a motor vehicle accident caused by a person who was shown to have been operating a motor vehicle [at the time of the accident] while intoxicated.

(2) [A sign shall not be installed in memory of those who themselves were intoxicated while also operating a motor vehicle.] **Intoxicated individuals killed while operating a motor vehicle are not eligible for this program.**

(3) Only one (1) sign may be requested and installed for [a] **each drunk driving victim [of a motor vehicle accident caused by a person who was shown to be operating a motor vehicle in an intoxicated condition at the time of the accident].**

AUTHORITY: section 227.295, RSMo [Supp. 2009] 2016. Original rule filed Sept. 3, 2009, effective April 30, 2010. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 27—David's Law Signing**

PROPOSED AMENDMENT

7 CSR 10-27.040 Administration. The Missouri Highways and Transportation Commission is amending sections (1), (2), (3), and (9).

PURPOSE: This amendment proposes to eliminate the unnecessary use of restrictive words and editorial changes for clarity.

(1) The commission will develop an application that will capture the information **needed from** the applicant [*must submit*] to determine eligibility for a sign under 7 CSR 10-27.010–7 CSR 10-27.040. The commission will make the application readily available to the public in an easily accessible location, such as the commission's Internet site.

(2) Applicants must complete and submit an application to the commission. [*This*] **The information necessary for an application [shall contain] to be accepted includes:**

(3) The commission [*shall be*] is responsible for reviewing **all** applications. The commission will use the information in the application as well as the other documentation [*required*] **specified** by this rule to determine if the application can be approved. The commission reserves the right to request additional information from the applicant if the circumstances of the crash are not clear.

(9) The fee for the sign [*shall*] represents the commission's cost to administer the program and manufacture, install, and maintain the sign for a period of ten (10) years. This cost, as well as the ten (10)-year renewal fee, will be based on the commission's operating costs for the year in which the original request or renewal request is received by the commission.

AUTHORITY: section 227.295, RSMo [Supp. 2009] 2016. Original rule filed Sept. 3, 2009, effective April 30, 2010. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 265—Motor Carrier and Railroad Safety
Chapter 9—Rail Fixed Guideway Systems**

PROPOSED AMENDMENT

7 CSR 265-9.010 Applicability of Chapter; Definitions. The Missouri Highways and Transportation Commission is amending sections (1) and (2).

PURPOSE: This proposed amendment removes eleven (11) existing definitions, amends three (3) existing definitions, adds three (3) new definitions, and incorporates the definitions in Title 49 United States Code (USC) 5329 and in Title 49 Code of Federal Regulations (CFR) Part 659 and Part 674.

(1) Notwithstanding any provision within 7 CSR 265-8 to the contrary, rail fixed guideway systems (RFGS) as defined in [this rule] Title 49 Code of Federal Regulations (CFR) Parts 659.5 and 674.7 shall be governed by the rules in this chapter, and not by the rules in 7 CSR 265-8. The regulations in 49 CFR Parts 659.5 and 674.7 are incorporated herein by reference and made a part of this rule as published October 1, 2016 by the Federal Transit Administration, United States Department of Transportation, 1200 New Jersey Avenue, SE Washington, DC 20590. This rule does not incorporate any subsequent amendments or additions of these regulations.

(2) As used in this chapter unless the context clearly requires otherwise, the following definitions and the definitions in Title 49 [Code of Federal Regulations (CFR) sections 659.5 and 659.15,] CFR Parts 659 and 674 and Title 49 United States Code (USC) 5329, which are incorporated by reference and made a part of this rule as published by the United States Government [Printing] Publishing Office, 732 North Capitol Street NW, Washington, DC 20401 on October 1, [2006,] 2016 and March 15, 2016, respectively, and this rule does not incorporate any subsequent amendments or additions to the CFRs and USC, apply:

(A) **Commission.** The Missouri Highways and Transportation Commission;

[(A)](B) **Contractor.** An entity that performs tasks required by 49 CFR [p]Part 659, on behalf of the rail fixed guideway system or the division. A rail fixed guideway system [shall] may not be a contractor for the division;

(C) **Department.** The Missouri Department of Transportation;

[(B)](D) **Division.** The Multimodal Operations Division within the Department of Transportation, which is authorized by the state Highways and Transportation Commission, as the State Safety and Security Oversight (SSO) agency for the state of Missouri. Whenever the term “division” is used within the rules in this chapter, [the term shall be interpreted as meaning] it means the Multimodal Operations Division;

[(C)](E) **Employee.** Any individual employed by a rail fixed guideway system for any period in any work for which s/he is compensated, whether full- or part-time, whose regular course of employment

relates to the operation, inspection, maintenance, or construction of the physical rail fixed guideway system property or the operation of trains;

[(D)] **Rail fixed guideway system (RFGS).** Any light rail, as defined in section 386.020, RSMo; any street railroad, as defined in section 622.100, RSMo; or any heavy or rapid rail system, monorail, inclined plain, funicular, trolley, or automated guideway that 1) is not regulated by the Federal Railroad Administration; 2) is included in Federal Transit Administration’s (FTA’s) calculation of fixed guideway route miles or receives funding under FTA’s formula program for urbanized areas (49 United States Code (U.S.C.) 5336); or 3) has submitted documentation to FTA indicating its intent to be included in FTA’s calculation of fixed guideway route miles to receive funding under FTA’s formula program for urbanized areas (49 U.S.C. 5336);

(E) **FRA.** The Federal Railroad Administration, an agency within the United States Department of Transportation.];

(F) **FTA.** The Federal Transit Administration, an agency within the United States Department of Transportation;

[(G)] **Hazard.** Any real or potential condition that can cause injury, illness, or death; damage to or loss of a system, equipment, or property; or damage to the environment;

(H) **Highrail wheels.** Any retractable flanged wheel assembly designed to allow a highway vehicle to operate on the track;

(I) **Light rail.** Every rail transportation system in which one or more rail vehicles are propelled electrically by overhead catenary wire upon tracks located substantially within an urban area and are operated exclusively in the transportation of passengers and their baggage, and including all bridges, tunnels, equipment, switches, spurs, tracks, stations, used in connection with the operation of light rail;

(J) **Passenger.** A person who is on board, boarding, or alighting from a rail transit vehicle for the purpose of travel.];

[(K)](G) **Passenger operations.** The period of time when any aspect of rail transit agency operations are initiated with the intent to carry passengers;

[(L)](H) **Pedestrian grade crossing.** A location where one (1) or more rail transit system tracks cross a public sidewalk or pathway used by pedestrians at grade;

[(M)](I) **Rail-highway grade crossing.** A location where one (1) or more rail transit system tracks cross a public highway, road, street, or private roadway, and includes a pedestrian grade crossing[.]; **A rail-highway grade crossing does not include highway or pathway intersections on a street running rail transit system;**

[(N)](J) **Rail transit agency.** An entity that operates a rail fixed guideway system;

[(O)](K) **Rail transit system.** A rail fixed guideway system (RFGS) in accordance with 49 CFR Part 659 and a rail fixed guideway public transportation system in accordance with 49 CFR Part 674;

[(P)] **Rail transit vehicle.** A rail transit agency’s rolling stock, including but not limited to passenger and maintenance vehicles.];

[(Q)](L) **Security plan (SP).** A document developed and adopted by the rail transit agency describing its security policies, objectives, responsibilities, and procedures;

(M) **Street running rail transit system.** A rail transit system in which the track(s) is embedded in a highway, road, or street and which operates in one (1) or more traffic lanes, either separate from or shared with vehicle traffic, and whose operation is subject to the applicable ordinances and traffic control devices for said public highway, road, or street.

[(R)] **System safety program plan (SSPP).** A document developed and adopted by the rail transit agency describing its safety policies, objectives, responsibilities, and procedures;

(S) *System safety program standard, or "program standard."* The policies, objectives, responsibilities, and procedures used to provide the rail transit agency safety and security oversight, which includes the SSO Manual and the rules contained within this chapter;

(T) *State Safety and Security Oversight Programs Manual for Missouri Light Rail (the SSO Manual), which is incorporated herein by reference and made a part of this rule as published by the Missouri Highways and Transportation Commission, Multimodal Operations Division, 2217 St. Mary's Boulevard, Jefferson City, Missouri 65109, 2006 Edition. This rule does not incorporate any subsequent amendments or additions of this manual. The manual developed by the division is used to provide standards, procedures, and technical direction to rail fixed guideway systems in order to implement the Missouri state safety and security oversight program as authorized in sections 389.1005 and 389.1010, RSMo and 49 CFR part 659; and*

(U) *Train. Includes any light rail vehicle, on-track work equipment, railroad, or street railroad car or locomotive engine.]*

AUTHORITY: sections 389.1005 and 622.027, RSMo [2000] 2016. This rule originally filed as 4 CSR 265-9.010. Emergency rule filed Feb. 5, 1993, effective Feb. 15, 1993, expired June 14, 1993. Original rule filed Nov. 4, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 265—Motor Carrier and Railroad Safety
Chapter 9—Rail Fixed Guideway Systems**

PROPOSED AMENDMENT

7 CSR 265-9.020 [System Safety Program Plan and Security Plan] *State Safety Oversight Agency Authorities and Requirements.* The Missouri Highways and Transportation Commission is deleting sections (1) through (3), (5), and (6), adding new sections (1) through (5) and (7), renumbering section (4), and amending the rule title and section (4).

PURPOSE: This amendment changes the title of the rule and makes certain other changes to the rule due to the enactment of the *Moving Ahead for Progress in the 21st Century Act (MAP-21)* and associated federal regulations.

[[1] The division incorporates by reference in this rule the *State Safety and Security Oversight Programs Manual for Missouri Light Rail (the SSO Manual), which is incorporated herein by reference and made a part of this rule as published*

by the Missouri Highways and Transportation Commission, Multimodal Operations Division, 2217 St. Mary's Boulevard, Jefferson City, Missouri 65109, 2006 Edition, as the system safety program standard for rail fixed guideway systems (RFGSs) operating within the state, as supplemented by the rules in this chapter. This rule does not incorporate any subsequent amendments or additions of this manual.

(2) The division shall require every RFGS operating in this state to develop, adopt, and implement a system safety program plan (SSPP) which conforms to 49 Code of Federal Regulations (CFR) section 659.15, the SSO Manual, and the rules in this chapter. The division shall review and may approve the SSPP and security plan (SP) in accordance with the SSO Manual.

(3) The division shall require every RFGS operating in this state to develop, adopt, and implement a SP which conforms to 49 CFR sections 659.21 and 659.23, which shall address the personal security of RFGS passengers, employees, and other persons lawfully present on RFGS property. The SP must be developed and maintained as a separate document and may not be a part of the SSPP.]

(1) In accordance with its authority established in section 389.1005, RSMo, and the Designation Letter signed by the Governor of Missouri on June 12, 2017, the division is designated as the State Safety Oversight Agency (SSOA) per 49 *United States Code (USC)* 5239(e)(4).

(2) The division is responsible for carrying out the responsibilities of an SSOA as set forth in the federal regulations and statute cited in this rule. The division adopts and enforces rules relating to the safe design, engineering, construction, testing, operation, and maintenance of Rail Fixed Guideway Systems (RFGS).

(3) The division incorporates by reference in this rule the full provisions of 49 *Code of Federal Regulations (CFR)* Part 659, 49 *USC* 5329, and 49 *CFR* Part 674, as published by the United States Government Publishing Office, 732 North Capitol Street NW, Washington, DC 20401 on October 1, 2016 and March 15, 2016, respectively. This rule does not incorporate any subsequent amendments or additions of the CFRs and USC.

(4) The SSOA is legally and financially independent from the overseen RFGS.

(5) The division retains the authority to access RFGS property in performance of SSOA duties, including to conduct investigations or to make announced or unannounced inspections.

[[4]](6) [The SP and any related d/Documents or information filed with this division by a RFGS under the provisions of this chapter may be closed to public inspection by the RFGS, or by the division as deemed necessary to prevent or mitigate breaches of security. The closure to public access, in whole or in part, of [these security provisions, and related] documents or information, [shall] does not preclude the division or its authorized personnel from inspecting and copying these provisions, documents and information, as otherwise provided by law or by the rules of the highways and transportation commission or orders of the division.

[[5] Every RFGS that begins passenger operations after January 1, 2007, shall file two (2) copies of its SSPP and SP with the division not less than one hundred eighty (180) days before starting passenger operations. The division shall review the SSPP and SP for compliance with the SSO Manual. Such review shall include a checklist to conduct the

review. If the division determines the SSPP and SP comply with the SSO Manual, the division shall issue a formal letter of approval.

(6) Every RFGS, and its officers, employees, contractors, and agents shall comply with all applicable provisions contained within its SSPP and SP filed with, and approved by, the division, and with all applicable provisions of the SSO Manual.]

(7) Every RFGS shall meet or exceed the FTA's alcohol and controlled substances testing requirements under 49 CFR Part 655, which are incorporated herein by reference and made a part of this rule as published October 1, 2016 by the FTA, United States Department of Transportation, 1200 New Jersey Avenue, SE Washington DC 20590. This rule does not incorporate any subsequent amendments or additions of these regulations.

AUTHORITY: sections 389.1005 and 622.027, RSMo [2000] 2016. This rule originally filed as 4 CSR 265-9.020[, RSMo 2000]. Original rule filed Nov. 4, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 6, 2017.

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

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

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

Title 7—DEPARTMENT OF TRANSPORTATION Division 265—Motor Carrier and Railroad Safety Chapter 9—Rail Fixed Guideway Systems

PROPOSED RESCISSION

7 CSR 265-9.040 Safety Reviews Shall Be in Accordance with Federal Transit Administration (FTA) Standards. This rule provided for the division's oversight of each rail fixed guideway system's internal safety audit process, and for the division's responsibility to perform a comprehensive, independent safety review of rail fixed guideway systems every three (3) years, in accordance with the FTA requirements under 49 CFR sections 659.27 and 659.29.

PURPOSE: This rule is being rescinded because the requirements contained therein will instead be incorporated in the state safety oversight program standard required in Title 49 *Code of Federal Regulations* Part 659 and Part 674.

AUTHORITY: sections 389.1005 and 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-9.040. Original rule filed Nov. 4, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Oct. 6, 2017.

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

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

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

Title 7—DEPARTMENT OF TRANSPORTATION Division 265—Motor Carrier and Railroad Safety Chapter 9—Rail Fixed Guideway Systems

PROPOSED AMENDMENT

7 CSR 265-9.050 Signs. The Missouri Highways and Transportation Commission is adding a Publisher's Note and amending sections (1) through (3).

PURPOSE: This amendment aligns the retroreflectivity standards in the rule to those in the *Manual on Uniform Traffic Control Devices*.

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

(1) All safety, directional, warning, and train control signs used on rail fixed guideway systems shall be made of aluminum or other noncorrosive material and covered with a retroreflectorized [or other] material to show the same shape and color by day or night. The retroreflectorized material used shall meet or exceed the minimum levels specified in the *Manual on Uniform Traffic Control Devices* (MUTCD) (2009 Edition), which is incorporated by reference and made a part of this rule as published by the Federal Highway Administration (FHWA), United States Department of Transportation (USDOT), 400 7th Street SW, Room 3408, Washington, DC 20590, website: http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/pdf_index.htm. This rule does not incorporate any subsequent amendments or additions of this manual.

(2) The signs shall be maintained in a reasonably clean condition and replaced when they have been [moderately] impaired by wear or damage. Sign retroreflectivity shall be assessed and maintained according to the minimum retroreflectivity standards of the MUTCD (2009 Edition), which is incorporated by reference and made a part of this rule as published by the FHWA, USDOT, 400 7th Street SW, Room 3408, Washington, DC 20590, website: http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/pdf_index.htm. This rule does not incorporate any subsequent amendments or additions of this manual.

(3) [In those cases where the division determines that the provisions of section (1) above will not perform effectively] Notwithstanding section (1) of this rule, the division may require the use of appropriate illumination for the signs.

AUTHORITY: sections 389.1005 and 622.027, RSMo [2000] 2016. This rule originally filed as 4 CSR 265-9.050. Original rule filed

Nov. 4, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 265—Motor Carrier and Railroad Safety
Chapter 9—Rail Fixed Guideway Systems**

PROPOSED RESCISSION

7 CSR 265-9.060 Drug and Alcohol Testing. This rule prevented accidents and injuries in the operation of rail fixed guideway systems that result from the impairment of employees by alcohol or drugs. This rule adopted the minimum safety standards for the control of alcohol and drug use which are prescribed by FTA regulations in 49 CFR part 655. This rule did not restrict a rail fixed guideway system from adopting and enforcing additional or more stringent requirements not inconsistent with this rule.

PURPOSE: This rule is being rescinded because the requirements contained therein will instead be incorporated in the state safety oversight program standard required in Title 49 *Code of Federal Regulations* (CFR) Part 659 and Part 674.

AUTHORITY: sections 389.1005 and 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-9.060. Emergency rule filed Feb. 5, 1993, effective Feb. 15, 1993, expired June 14, 1993. Original rule filed Nov. 4, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 265—Motor Carrier and Railroad Safety
Chapter 9—Rail Fixed Guideway Systems**

PROPOSED AMENDMENT

7 CSR 265-9.070 Hours of Service. The Missouri Highways and Transportation Commission is amending sections (1) through (7).

PURPOSE: This amendment clarifies the requirements of the rule and eliminates unnecessarily restrictive wording.

(1) This rule *[shall apply]* **applies** to every employee who operates a train on the main line or is directly involved in controlling the operations of a train on the main line of a rail fixed guideway system (RFGS). No RFGS *[shall]* **may** require or allow any of these employees to perform work in excess of the allowable hours established in this rule.

(2) No employee *[shall]* **will** be required or allowed to continue on duty or to go on duty until the employee has had at least ten (10) consecutive hours off duty, if that employee has been continuously on duty for twelve (12) hours or more.

(3) Time on duty *[shall]* commences when an employee begins to work or is required to be in readiness to work and continues until the time the employee is relieved from work and all responsibility for performing work. Time on duty *[shall]* includes:

(B) Time spent in the transportation of an employee to a duty assignment, except that time spent transporting an employee from a duty point of final release *[shall]* **is not [be]** counted.

(4) No employee *[shall]* **will** be required or allowed to continue on duty or go on duty unless s/he has had at least *[eight (8)] ten (10)* consecutive hours off duty during the preceding twenty-four (24) hours.

(5) When a situation requiring the extended service of an employee covered by this rule occurs, which is both unforeseeable and beyond the control of the RFGS, the employee may be on duty in excess of the twelve- (12-)[-] hour limit **in section (2) of this rule** but *[shall not]* **cannot** be required or allowed to continue on duty in excess of fifteen (15) hours. *[Under the provisions of this section]* **Notwithstanding the exception in this section (5)**, an employee shall not work in excess of the twelve- (12-)[-] hour limit more than two (2) days in a seven- (7-)[-] day period.

(6) The RFGS *[shall]* **will** establish and maintain at one (1) or more locations where employees covered by this rule report on or off duty, a written hours of service log which shall record the hours of service of these employees. The RFGS *[shall]* **will** keep this log current for each of these employees showing the time of the last change of duty status of the employee. Any supervisor making an entry on behalf of any of these employees must initial such an entry. For each of these employees, the hours of service log *[shall]* **will** include at least the following information:

(7) The RFGS *[shall]* **will** retain in its custody and make available to the division for inspection the hours of service log for a period of one (1) year after the last entry is made in each daily log.

AUTHORITY: sections 389.1005 and 622.027, RSMo [2000] 2016. This rule originally filed as 4 CSR 265-9.070. Emergency rule filed Feb. 5, 1993, effective Feb. 15, 1993, expired June 14, 1993. Original rule filed Nov. 4, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 265—Motor Carrier and Railroad Safety
Chapter 9—Rail Fixed Guideway Systems**

PROPOSED RESCISSION

7 CSR 265-9.090 Walkways. This rule prescribed the minimum safety standards for the construction, reconstruction, and maintenance of walkways adjacent to rail fixed guideway system tracks within Missouri.

PURPOSE: This rule is being rescinded because the requirements contained therein will instead be incorporated in the state safety oversight program standard required in Title 49 Code of Federal Regulations (CFR) Part 659 and Part 674.

AUTHORITY: sections 389.1005 and 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-9.090. Original rule filed Nov. 4, 1992, effective June 7, 1993. Moved and amended: Filed Nov. 20, 2006, effective June 30, 2007. Rescinded: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 265—Motor Carrier and Railroad Safety
Chapter 9—Rail Fixed Guideway Systems**

PROPOSED AMENDMENT

7 CSR 265-9.100 Rail-Highway Grade Crossing Construction and Maintenance. The Missouri Highways and Transportation Commission is amending subsections (1)(C) and (1)(D).

PURPOSE: This amendment updates the references to the Manual on Uniform Traffic Control Devices and American Railway Engineering and Maintenance of Way Association's guidelines that are incorporated into this rule.

(1) Every public rail-highway grade crossing on a rail fixed guideway system (RFGS), whether involving railroad, light rail, or street railroad tracks, shall be constructed of materials that will provide a ride quality compatible with that of adjacent roadway surfaces (except that crossings of asphalt material shall have installed headers of equal height to the top of rails installed on both sides of both rails). Rail-

highway grade crossings constructed on RFGSs shall have, at a minimum, a crossing material comparable to or exceeding the material used in the approaching roadway. Grade crossings constructed of unconsolidated material are prohibited.

(C) Width of roadway at a rail-highway grade crossing upon an RFGS should correspond to that of the adjoining highway and have the same number and width of traffic lanes as the adjoining highway, without extra lanes, and with center turn lanes at the crossing delineated. At all paved approaches to the rail-highway grade crossing, the highway traffic lanes in the vicinity of the crossing should be distinctly marked in accordance with the recommendations of the *Manual on Uniform Traffic Control Devices for Streets and Highways, 200[3]9 Edition*, which is incorporated [herein] by reference and made a part of this rule as published by the Federal Highway Administration, United States Department of Transportation, 400 7th Street SW, Room 3408, Washington, DC 20590, **website: http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/pdf_index.htm**. This rule does not incorporate any subsequent amendments or additions of this manual. These markings are the responsibility of the public highway authorities.

(D) Part I (subsections 1.4–1.11) of the *American Railway Engineering Association's Guidelines for the Construction or Reconstruction of Highway-Railway At-Grade Crossings, [2005] 2013 Edition*, which is incorporated by reference, and made a part of this rule as published by the American Railway Engineering and Maintenance of Way Association, [8201 Corporate Drive, Landover, MD 20785] **4501 Forbes Blvd, Suite 130, Lanham-Seabrook, MD 20706**. This rule does not incorporate any subsequent amendments or additions of these guidelines. These guidelines are made applicable to RFGSs as recommended practices for the construction and reconstruction of rail-highway crossings, if practicable[, but with the following changes:].

[1. Paragraph 1.9.8, line 1, of the guidelines is amended by striking out the numeral "115," and inserting the numeral "112" in lieu of 115.]

AUTHORITY: sections 389.1005 and 622.027, RSMo [2000] 2016. This rule originally filed as 4 CSR 265-9.100. Original rule filed Nov. 4, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 265—Motor Carrier and Railroad Safety
Chapter 9—Rail Fixed Guideway Systems**

PROPOSED AMENDMENT

7 CSR 265-9.110 Rail-Highway Grade Crossing Warning Devices. The Missouri Highways and Transportation Commission is amending section (1).

PURPOSE: This amendment updates the references to the Manual on Uniform Traffic Control Devices guidelines that are incorporated into this rule.

(1) The [Multimodal Operations Division of the state highways and transportation commission] division incorporates by reference in this rule Part [VIII] 8 of [Federal Highway Administration, U.S. Department of Transportation,] the Manual on Uniform Traffic Control Devices for Streets and Highways [MUTCD] (2003/9 edition), which is incorporated herein by reference and made a part of this rule as published by the Federal Highway Administration, United States Department of Transportation, 400 7th Street SW, Room 3408, Washington, DC 20590, website: http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/pdf_index.htm and makes it applicable to rail fixed guideway systems (RFGS). This rule does not incorporate any subsequent amendments or additions of this manual. Part [VIII] 8, entitled "Traffic Control [Systems] for [Railroad-Highway] Railroad and Light Rail Transit Grade Crossings," establishes standards for the design, installation, and operation of rail-highway grade crossing warning devices. The commission recommends that the standards in Part [VIII] 8 be applied in the installation of all grade crossing warning systems on RFGSs in Missouri, unless otherwise provided by rule of the commission or order of the division.

AUTHORITY: sections 389.1005 and 622.027, RSMo [2000] 2016. This rule originally filed as 4 CSR 265-9.110. Emergency rule filed Feb. 5, 1993, effective Feb. 15, 1993, expired June 14, 1993. Original rule filed Nov. 4, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 6, 2017.

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

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

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

Title 7—DEPARTMENT OF TRANSPORTATION Division 265—Motor Carrier and Railroad Safety Chapter 9—Rail Fixed Guideway Systems

PROPOSED AMENDMENT

7 CSR 265-9.130 Visual Obstructions at Public Grade Crossings. The Missouri Highways and Transportation Commission is amending sections (1) and (2).

PURPOSE: This amendment clarifies the requirements of the rule and eliminates unnecessarily restrictive wording.

(1) It [shall be] is the duty of every rail fixed guideway system (RFGS) operating within Missouri to maintain right of way at public rail-highway grade crossings so that it will be reasonably clear of vegetation, undergrowth, and other debris for a distance of two hundred fifty feet (250') each way from the crossings.

(2) [After the effective date of this rule, n]No sign, buildings, or other structures either temporary or permanent [shall] may be erected on the right of way of any RFGS within two hundred fifty feet (250') each way from any rail-highway grade crossing where [those things] the sign, building, or other structure would materially obscure approaching trains from the view of travelers on the highway, unless otherwise authorized by this division.

AUTHORITY: sections 389.1005 and 622.027, RSMo [2000] 2016. This rule originally filed as 4 CSR 265-9.130. Original rule filed Nov. 4, 1992, effective June 7, 1993. Moved and amended: Filed Nov. 20, 2006, effective June 30, 2007. Amended: Filed Oct. 6, 2017.

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

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

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

Title 7—DEPARTMENT OF TRANSPORTATION Division 265—Motor Carrier and Railroad Safety Chapter 9—Rail Fixed Guideway Systems

PROPOSED RESCISSION

7 CSR 265-9.140 Dedicated Rail Fixed Guideway Telephone. This rule required all rail fixed guideway systems operating within Missouri to provide a telephone so that those employees controlling the movement of trains may be contacted by appropriate emergency response agencies in case of emergency.

PURPOSE: This rule is being rescinded because the requirements contained therein will instead be incorporated in the state safety oversight program standard required in Title 49 Code of Federal Regulations (CFR) Part 659 and Part 674.

AUTHORITY: sections 389.1005 and 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-9.140. Original rule filed Nov. 4, 1992, effective June 7, 1993. Moved and amended: Filed Nov. 20, 2006, effective June 30, 2007. Rescinded: Filed Oct. 6, 2017.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 265—Motor Carrier and Railroad Safety
Chapter 9—Rail Fixed Guideway Systems**

PROPOSED RESCISSION

7 CSR 265-9.150 Accidents and Hazards, Compliance with Federal Transit Administration (FTA) Notification. This rule provided for the reporting and correction of accidents and hazards occurring on rail fixed guideway systems, and for appropriate investigation by the division.

PURPOSE: This rule is being rescinded because the requirements contained therein will instead be incorporated in the state safety oversight program standard required in Title 49 Code of Federal Regulations (CFR) Part 659 and Part 674.

AUTHORITY: sections 389.1005 and 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-9.150. Emergency rule filed Feb. 5, 1993, effective Feb. 15, 1993, expired June 14, 1993. Original rule filed Nov. 4, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Oct. 6, 2017.

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

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

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

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES**

**Division 20—Division of Community and Public Health
Chapter 1—Food Protection**

PROPOSED AMENDMENT

19 CSR 20-1.040 Good Manufacturing Practices. The department is amending sections (1) and (2).

PURPOSE: This amendment updates state food manufacturing standards to be consistent with the U.S. Food and Drug Administration's (FDA) current good manufacturing practices regulation.

(1) Applicability. The requirements of this rule apply to buildings or facilities, or parts thereof, used for, or in connection with, the manufacturing, packaging, [transporting] processing, or holding of human food.

(2) Standards. Manufacturers, distributors, and warehouses shall operate in accordance with 21 CFR Part [110] 117 Current Good Manufacturing Practice [in Manufacturing, Packing, or Holding], Hazard Analysis, and Risk-Based Preventive Controls for Human Food, revised as of [April 1, 2012] September 17, 2015, hereby incorporated by reference and made a part of this rule

as published by the U.S. Government [Printing] Publishing Office, 732 North Capitol Street NW, Washington, DC 20401-0001, (202) 512-1800, <http://bookstore.gpo.gov>. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: sections 192.006, 192.020, and 196.045, [RSMo 2000, and section 192.020,] RSMo [Supp. 2012] 2016. This rule was previously filed as 13 CSR 50-70.010. Original rule entitled Missouri Division of Health E 1.20 was filed Nov. 17, 1949, effective Nov. 27, 1949. Rescinded and readopted: Filed March 11, 2013, effective Sept. 30, 2013. Emergency amendment filed Oct. 13, 2017, effective Oct. 23, 2017, expires April 20, 2018. Amended: Filed Oct. 13, 2017.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, Division of Community and Public Health, Kerri Tesreau, Interim Division Director, PO Box 570, Jefferson City, MO 65102-0570. 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 2200—State Board of Nursing
Chapter 4—General Rules**

PROPOSED RESCISSION

20 CSR 2200-4.022 Nurse Licensure Compact. This rule set forth the provisions of the nurse licensure compact.

PURPOSE: The current Nurse Licensure Compact expires on January 18, 2018.

AUTHORITY: sections 335.300, 335.325, and 335.335, RSMo Supp. 2012. Original rule filed Oct. 8, 2009, effective April 30, 2010. Amended: Filed March 8, 2013, effective Aug. 30, 2013. Rescinded: Filed Oct. 10, 2017.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075, or via email at nursing@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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2200—State Board of Nursing
Chapter 4—General Rules**

PROPOSED RESCISSION

20 CSR 2200-4.025 Definitions. This rule provided definitions for specific terms used throughout the rules.

PURPOSE: This rule is being rescinded because the Missouri Nurse Intervention and Treatment Program (MNIT) has never been used to monitor licensees.

AUTHORITY: sections 335.036 and 335.067, RSMo Supp. 2007. Original rule filed Feb. 11, 2008, effective Aug. 30, 2008. Rescinded: Filed Oct. 10, 2017.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075, or via email at nursing@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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2200—State Board of Nursing
Chapter 4—General Rules**

PROPOSED RESCISSION

20 CSR 2200-4.026 Membership and Organization. This rule established the membership and organization of the MNIT Board of Directors.

PURPOSE: This rule is being rescinded because the Missouri Nurse Intervention and Treatment Program (MNIT) has never been used to monitor licensees.

AUTHORITY: sections 335.036 and 335.067, RSMo Supp. 2007. Original rule filed Feb. 11, 2008, effective Aug. 30, 2008, Rescinded: Filed Oct. 10, 2017.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075, or via email at nursing@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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2200—State Board of Nursing
Chapter 4—General Rules**

PROPOSED RESCISSION

20 CSR 2200-4.027 MNIT Board of Directors/Contractor Duties. This rule established the duties of the MNIT Board of Directors and contractor.

PURPOSE: This rule is being rescinded because the Missouri Nurse Intervention and Treatment Program (MNIT) has never been used to monitor licensees.

AUTHORITY: sections 335.036 and 335.067, RSMo Supp. 2007. Original rule filed Feb. 11, 2008, effective Aug. 30, 2008. Rescinded: Filed Oct. 10, 2017.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075, or via email at nursing@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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2200—State Board of Nursing
Chapter 4—General Rules**

PROPOSED RESCISSION

20 CSR 2200-4.028 Confidentiality. This rule established guidelines regarding the confidentiality of the records and information of the impaired professional.

PURPOSE: This rule is being rescinded because the Missouri Nurse Intervention and Treatment Program (MNIT) has never been used to monitor licensees.

AUTHORITY: sections 335.036 and 335.067, RSMo Supp. 2007. Original rule filed Feb. 11, 2008, effective Aug. 30, 2008. Rescinded: Filed Oct. 10, 2017.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075, or via email at nursing@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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2200—State Board of Nursing
Chapter 4—General Rules**

PROPOSED RESCISSION

20 CSR 2200-4.029 MNIT Administrator. This rule established the qualifications and duties of the MNIT administrator.

PURPOSE: This rule is being rescinded because the Missouri Nurse Intervention and Treatment Program (MNIT) has never been used to monitor licensees.

AUTHORITY: sections 335.036 and 335.067, RSMo Supp. 2007. Original rule filed Feb. 11, 2008, effective Aug. 30, 2008. Rescinded: Filed Oct. 10, 2017.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075, or via email at nursing@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.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED AMENDMENT

20 CSR 2220-2.025 Nonresident Pharmacies. The board is amending sections (1), (2), and (3).

PURPOSE: This amendment updates and clarifies requirements for nonresident pharmacies.

(1) Nonresident pharmacies shall not ship, mail, or deliver prescription drugs into Missouri without first obtaining a pharmacy license from the Missouri Board of Pharmacy. An exemption to licensure is allowed when a nonresident pharmacy provides a prescription drug in an emergency situation or supplies lawful refills to a patient from a prescription that was originally filled and delivered to a patient within the state in which the nonresident pharmacy is located [or provides medications upon receipt of a prescription or physician order for patients in institutional settings and the nonresident pharmacy is not recognized as a primary provider].

(2) To obtain a **Missouri pharmacy** license [as a pharmacy], a nonresident pharmacy must [comply with each of the following:]—

(A) Maintain a **pharmacy** license in good standing from the state

in which the nonresident pharmacy is located;

(B) Submit an application as provided by the Missouri Board of Pharmacy for licensure in compliance with [4 CSR 220-2.020(2) and (3)] 20 CSR 2220-2.020(2), (3), (9), and (10);

(D) Submit a copy of the state pharmacy license from the state in which the nonresident pharmacy is located; [and]

(E) [Submit a copy of the state and federal controlled substance registrations from the state in which it is located, if controlled substances are to be shipped into Missouri.] If controlled substances will be shipped into Missouri, submit a copy of the applicant's federal controlled substance registration and, if applicable, a copy of the applicant's state controlled substance registration from the state where the applicant is located;

(F) If the designated pharmacist-in-charge does not have a current and active Missouri pharmacist license issued by the board, submit an official verification from the state board of pharmacy or equivalent state pharmacist licensing agency verifying that the designated pharmacist-in-charge holds a current and active pharmacist license in the state in which the nonresident pharmacy is located; and

(G) Submit a copy of the applicant's most recent pharmacy inspection by the applicant's resident state board of pharmacy or its equivalent state regulatory body. The inspection must have occurred within the last eighteen (18) months for sterile compounding pharmacy applicants or within the last twenty-four (24) months for all other pharmacy applicants. If a state inspection is unavailable, an inspection by the Missouri Board of Pharmacy or from the Verified Pharmacy Program (VPP) of the National Association of State Boards of Pharmacy may be accepted.

(3) [When requested to do so by the Missouri Board of Pharmacy, e]Each nonresident pharmacy shall supply any inspection reports, warning notices, notice of deficiency reports, or any other related reports [from the state in which it is located concerning the operation of a nonresident pharmacy for] requested by the board or the board's authorized designee to review [of] compliance with state and federal drug laws.

AUTHORITY: sections 338.140, 338.210.4, 338.220, 338.240, and 338.280, RSMo [2000 and 338.220, RSMo Supp. 2001] 2016. This rule originally filed as 4 CSR 220-2.025. Original rule filed Jan. 16, 1990, effective May 11, 1990. Amended: Filed June 28, 2002, effective Jan. 30, 2003. Moved to 20 CSR 2220-2.025, effective Aug. 28, 2006. Amended: Filed Oct. 10, 2017.

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 save private entities approximately five thousand two hundred seventy-eight dollars (\$5,278) annually 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.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this rule in the *Missouri Register*. No public hearing is scheduled.

<p>FISCAL NOTE PRIVATE COST</p>

- I. Department Title: Department of Insurance, Financial Institutions and Professional Registration**
Division Title: State Board of Pharmacy
Chapter Title: General Rules

Rule Number and Title:	20 CSR 2220-2.025 (Nonresident Pharmacies)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the 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:
203	Non-Resident Pharmacy Applicants	\$ 5,278 <i>(Recurring annually over the life of the rule)</i>

III. WORKSHEET

Estimated # of Non-Resident Pharmacy Applicants	Description of Costs	Calculation of Estimates	TOTAL COSTS
203	Non-resident pharmacist-in-charge license verifications	(\$ 25 verification fee x 203 pharmacists)	\$ 5,075 <i>(Recurring annually over the life of the rule)</i>
203	Copy of state inspection	(\$.10 per page x 10 pages x 203 non-resident pharmacy applicants)	\$ 203 <i>(Recurring annually over the life of the rule)</i>
TOTAL ESTIMATED ANNUAL COSTS FOR THE LIFE OF THE RULE			\$ 5,278

IV. ASSUMPTIONS

The following estimations were used to calculate private fiscal costs:

1. Based on FY 12 – FY 16 statistics, the Board estimates an average of two-hundred and ninety (290) new pharmacy applications will be received annually. Based on current licensing trends, the Board further estimates 70% of the two-hundred and ninety (290) new pharmacy applicants will be submitted by non-resident applicants (approximately 203 non-resident pharmacy applicants).
2. License verification fees vary by state. Based on prior discussions with licensees and other state agencies, the Board estimates other states may charge an average non-resident pharmacist license verification fee of twenty-five dollars (\$ 25). Significantly, an increasing number of states provide free online official license verifications that would be acceptable under the proposed rule amendment. Accordingly, estimated costs may be significantly lower.
3. The Board estimates the average inspection report required by the rule will not exceed ten (10) pages. Copy costs are based on currently authorized fees for copying public records under 610.026, RSMo.
4. The Board anticipates the number of non-resident pharmacy applicants will remain consistent over the life of the rule. Total estimated costs may vary with inflation and increase at the rate projected by the Legislative Oversight Committee.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

to produce records in section (4) from fifteen (15) to thirty (30) business days.

RESPONSE AND EXPLANATION OF CHANGE: Section (4) was amended to give additional time to TNCs to produce records, however, the amendment will increase the time to thirty (30) days, not thirty (30) business days which will make computation of time less burdensome.

12 CSR 10-23.600 Complaint, Inspection, and Disciplinary Process for Transportation Network Companies

(4) TNCs shall cooperate with any investigation or audit by the department related to sections 387.400 to 387.440, RSMo, and sections 379.1700 to 379.1708, RSMo. TNCs shall permit an employee or agent of the department to inspect, during normal business hours, any and all records which are required to be maintained pursuant to sections 387.400 to 387.440, RSMo, if related to an investigation as described above. If a third party is utilized in accordance with section 387.420, RSMo, all records gathered and supplied by the third party shall be maintained and available for inspection by the department. Any records which may be reviewed by a home rule city or the commission must also be made available to the department for inspection purposes upon request. TNCs shall make requested records available for review or provide electronic copies of records within thirty (30) days in order to comply with the provisions of this section.

(6) To the extent permitted by section 387.440, RSMo, a home rule city or the commission may assess a fine of up to five-hundred dollars (\$500) to a TNC for failure to comply with sections 387.400 to 387.440, RSMo, and shall comply with all notification requirements contained in this section.

(A) The home rule city or the commission shall send a notice to the TNC's registered agent which includes the amount of the fine, a brief statement of facts establishing the TNC's failure to comply with any requirement in sections 387.400 to 387.440, RSMo, and a statement indicating the right of appeal in substantially the following language: "If you are adversely affected by this notice, you may appeal to the Department of Revenue. To appeal, you must file a request for hearing with the Department of Revenue, PO Box 703, Jefferson City, MO 65105, within thirty (30) days after the date this notice was mailed or the date it was delivered, whichever date was earlier. If any such request for hearing is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the Department of Revenue." A copy of the notice must be provided to the department upon issuance by mailing it to Department of Revenue, PO Box 703, Jefferson City, MO 65105 or by sending it electronically to mvbmail@dor.mo.gov.

1. Any TNC fined by a home rule city or the commission shall be entitled to a hearing before the director by filing a request for hearing with the department within thirty (30) days after the date this notice was mailed or the date it was delivered, whichever date was earlier. If the request for hearing is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the Department of Revenue.

2. Failure to file a timely request for hearing will be considered a waiver of the right to an administrative hearing and will establish and make final, for the purposes of administrative appeal, the home rule city or the commission's factual findings and fines.

(E) The department will make a record of the proceedings and evidence presented. Hearing procedures shall be substantially as follows:

1. The home rule city or the commission will have the initial burden of proof and must present, by a preponderance of the evidence, facts establishing the TNC's failure to comply with sections 387.400 to 387.440, RSMo;

Title 12—DEPARTMENT OF REVENUE Division 10—Director of Revenue Chapter 23—Motor Vehicle

ORDER OF RULEMAKING

By the authority vested in the Director of Revenue under section 387.430, RSMo Supp. 2017, the director adopts a rule as follows:

12 CSR 10-23.600 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1196-1197). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Revenue made one (1) comment and received one (1) comment from the public.

COMMENT #1: Department of Revenue staff found three (3) technical amendments that need to be made to the rule: 1) in subsection (6)(A), "section" needs to be amended to "sections"; and 2) in paragraphs (6)(E)1. and 2., the reference to sections "301.400 to 301.440" needs to be amended reflect the TNC statutory framework, "387.400 to 387.440".

RESPONSE AND EXPLANATION OF CHANGE: The technical changes were adopted because "section" needed to be in the plural, and the statutory references indicated were intended to be to Chapter 387.

COMMENT #2: Lyft proposes amending the time period for TNCs

2. The TNC may present any evidence establishing or suggesting compliance with the provisions of sections 387.400 to 387.440, RSMo, or any rebuttal evidence;

3. Parties may present testimony by notarized affidavit or by stipulation of the parties. Affidavits or stipulations may be filed at the time of hearing or any time prior to the hearing;

4. The department will receive oral testimony and any live witnesses will be subject to cross examination;

5. Failure to appear at the hearing at the stated time may result in a default finding and decision against the absent party; and

6. When not inconsistent with this subsection, the provisions of Chapter 536, RSMo shall apply to hearings held in accordance with section 387.440, RSMo.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Fund Board of Directors under section 50.1032, RSMo 2016, the board amends a rule as follows:

16 CSR 50-2.140 Cost-of-Living Adjustment is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2017 (42 MoReg 1107). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 20—County Employees' Deferred Compensation Plan

ORDER OF RULEMAKING

By the authority vested in the County Employees' Retirement Fund Board of Directors under section 50.1300, RSMo 2016, the board amends a rule as follows:

16 CSR 50-20.120 Additional Provisions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2017 (42 MoReg 1107). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections

332.031, 332.091, and 332.311, RSMo 2016, the board amends a rule as follows:

20 CSR 2110-2.001 Definitions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2017 (42 MoReg 1107–1108). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2233—State Committee of Marital and
Family Therapists
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Committee of Marital and Family Therapists under sections 337.712 and 337.727, RSMo 2016, the committee amends a rule as follows:

20 CSR 2233-1.040 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2017 (42 MoReg 1108–1110). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs, and other items required to be published in the *Missouri Register* by law.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

**NOTIFICATION OF REVIEW:
APPLICATION REVIEW SCHEDULE**

The Missouri Health Facilities Review Committee has initiated review of the CON applications listed below. A decision is tentatively scheduled for January 8, 2018. These applications are available for public inspection at the address shown below.

Date Filed

Project Number: Project Name
City (County)
Cost, Description

10/19/2017

#5518 HS: Mercy Hospital St. Louis
O'Fallon (St. Charles County)
\$1,360,616, Replace MRI

10/22/2017

#5527 RS: Clarendale of St. Peters
St. Peters (St. Charles County)
\$12,500,000, Establish 110-bed ALF

10/25/2017

#5528 HS: Mercy Hospital St. Louis
Ballwin (St. Louis County)
\$1,518,186, Add Additional MRI

10/27/2017

#5526 RS: The Lodge
Fayette (Howard County)
\$1,500,000, Add 20 ALF beds

#5536 RS: Moberly Retirement Center
Moberly (Randolph County)
\$1,600,000, Establish 18-bed RCF

#5532 NS: Delta South Nursing and Rehabilitation
Sikeston (New Madrid County)
\$89,000, Add 25 SNF beds

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by November 29, 2017. All written requests and comments should be sent to—

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
3418 Knipp Drive, Suite F
PO Box 570
Jefferson City, MO 65102
For additional information contact Karla Houchins at (573) 751-6700.