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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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**JOHN R. ASHCROFT**

Administrative Rules Division  
James C. Kirkpatrick State Information Center  
600 W. Main  
Jefferson City, MO 65101  
(573) 751-4015

EDITOR-IN-CHIEF

CURTIS W. TREAT

•

MANAGING EDITOR

AMANDA MCKAY

•

EDITOR

VONNE KILBOURN

•

ASSOCIATE EDITOR

MARTY SPANN

•

PUBLICATION SPECIALIST

JACQUELINE D. WHITE

•

ADMINISTRATIVE AIDE

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December 1, 2017 December 15, 2017	<b>January 2, 2018</b> <b>January 16, 2018</b>	January 29, 2018 January 29, 2018	February 28, 2018 February 28, 2018
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August 1, 2018 August 15, 2018	<b>September 4, 2018</b> <b>September 17, 2018</b>	September 30, 2018 September 30, 2018	October 30, 2018 October 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](http://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–

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

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

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

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

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

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

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

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

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

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

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 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.

**R**ules 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.

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

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2245—Real Estate Appraisers  
Chapter 5—Fees**

**EMERGENCY AMENDMENT**

**20 CSR 2245-5.020 Application, Certificate and License Fees.**  
The commission is amending section (2).

*PURPOSE: This amendment sets forth the required fees assessed to appraisal management companies per Policy Statement 8 issued by the Appraisal Subcommittee in accordance with the Dodd-Frank Act.*

*EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date of the rule by informing the public of a new fee relating to appraisal management companies. The proposal outlines the twenty-five dollar (\$25) annual registry fee to be paid by Appraisal Management Companies (AMC) for each appraiser who completes a covered transaction within a given year. This is a result of the Dodd-Frank Act signed in 2010 by the president which required the Appraisal Subcommittee (ASC) to maintain a national registry of appraisal management companies that are under the supervision of a state appraiser licensing agency or operating subsidiary of a federally regulated financial institution.*

*The Appraisal Subcommittee of the Federal Financial Institutions*

*Examination Council (ASC) adopted a final rule pursuant to 12 U.S.C. 3353, to implement collection and transmission of federal appraisal management company (AMC) annual registry fees to be collected per the federal Dodd-Frank Act by all state appraiser certifying and licensing agencies, including the Missouri Real Estate Appraisers Commission (commission). The final rule became effective on November 24, 2017. The ASC gave the states the flexibility to determine the twelve- (12-) month reporting period and collecting period for the annual registry fee. The commission elected to collect the registry fee during the biennial licensure renewal period which starts April 1, 2018. The commission will collect the registry fee biennially thereafter. The collected registry fees are submitted to the ASC for Missouri AMCs to be eligible for the AMC Registry. It is very important that Missouri AMCs be on this national registry to assign appraisals to appraisers in conjunction with federally related transactions. If not listed on the national registry, Missouri AMC's would not be able to perform these functions and lose out on this business.*

*The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the commission has determined that if the fee is not collected then appraisal management companies would not be able to conduct business involving a federally related transaction in Missouri. In addition, pursuant to section 339.509, RSMo the commission shall, "define by regulation, with respect to each category of trainee, state certified real estate appraiser, and state licensed real estate appraisers and for appraisal management companies, the type of educational experience, appraisal experience and equivalent experience, and other criteria that will meet the statutory requirements of sections 339.500 to 339.549 or as required by federal law or regulation, provided that such standards shall be equivalent to the minimum criteria for certification and licensure issued by the appraiser qualifications board of the appraisal foundation and the provisions of 339.517 or as required by federal law and regulations." The division believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed March 5, 2018, becomes effective March 15, 2018, and expires September 10, 2018.*

(2) The following fees shall be paid by appraisal management companies (AMC) for original application, issuance, and renewal of license:

(B) License Renewal Fee	\$350
<b>1. Federal AMC covered transactions</b>	
(per appraiser)	<b>\$ 25*</b>
(F) Appraisal Subcommittee Fee (per appraiser)	<b>\$ 25**</b>

**\*For those AMCs that meet the federal definition of AMC as defined in 12 U.S.C. 3350(11): an additional twenty-five dollars (\$25) multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction during the previous two (2) years shall be remitted.**

**\*\*Appraisal management companies that are owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813 and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation are to remit a check made payable to the Appraisal Subcommittee by June 30th of even numbered years. The amount to be remitted shall be determined by multiplying the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction by twenty-five dollars (\$25) for each of the previous two (2) years.**

*AUTHORITY: sections 339.509, 339.513, and 339.525.4, RSMo [Supp. 2012] 2016. This rule originally filed as 4 CSR 245-5.020. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed March 5, 2018, effective March 15, 2018, expires Sept. 10, 2018. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

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

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

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

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

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

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

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title [4]7—DEPARTMENT OF [ECONOMIC  
DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad  
Safety  
Chapter [2]8—[Practice and Procedure] Railroads**

**PROPOSED AMENDMENT**

*[4]7 CSR 265-[2.010]8.005 Definitions.* The Missouri Highways and Transportation Commission is moving the rule to Title 7, amending the purpose statement, deleting sections (1), (2), (4), (6), (10), (12), and (16) through (19), amending sections (3), (5), (7), (8), (9), (11) and (13) through (15), adding new sections (2), (4), (8), (13), and (14), and renumbering sections (3), (5), (7), (8), (9), (11), and (13) through (15).

*PURPOSE:* This amendment moves the rule from Title 4 to Title 7, removes those definitions or parts of definitions solely relating to

*Motor Carriers, clarifies some existing definitions, and adds new definitions relating to railroads.*

*PURPOSE:* This rule defines terms used in the rules comprising *[4 CSR 265-2 Practice and Procedure] 7 CSR 265-8 Railroads.*

*[Editor's Note: The following material is incorporated into this rule by reference:*

*1) Missouri Division of Transportation, Single State Registration System (SSRS) Procedures Manual (Jefferson City, MO: Department of Economic Development Revised July 1, 1994);*

*2) Section 4005 of Title IV of Public Law 102-240 (49 U.S. Code 11506) (Washington: U.S. Government Printing Office, 1993).*

*In accordance with section 536.031(4), RSMo, the full text of material incorporated by reference will be made available to any interested person at the Office of the Secretary of State and the headquarters of the adopting state agency.*

*[(1) Administrative law judge means one of the administrative law judges appointed to the division.*

*(2) Administrative law judge section means the section of the division consisting of the three (3) administrative law judges, acting together or independently.]*

*[(3)](1) Applicant [means] - any person on whose behalf application is made before the division for permission or authorization which the division is empowered to grant under its statutory or other delegated authority.*

**(2) Commission - the Missouri Highways and Transportation Commission, a state agency created by statute and vested with authority by Article IV, Section 29, Missouri Constitution.**

*[(4) Complainant means any person, corporation or municipality on whose behalf a complaint is filed with the division.]*

*[(5)](3) Corporation [includes] - a corporation, company, association or joint stock association, or limited liability company.*

*[(6) Counsel means the counsel to the division and includes all deputies and assistants.]*

**(4) Department - the Missouri Department of Transportation.**

*[(7)](5) Director [means the chief administrative officer of the division] - the director of the Multimodal Operations Division of the Department of Transportation.*

*[(8)](6) Division [means the Division of Transportation as created by Chapter 622, RSMo] - the Multimodal Operations Division within the Department of Transportation.*

*[(9)](7) Division staff [means all division personnel other than those individuals assigned to the administrative law judge section] - personnel of the Railroad Section of the Multimodal Operations Division.*

**(8) Federal Railroad Administration (FRA) - an agency within the United States Department of Transportation.**

*[(10) Intervenor means a person petitioning to intervene before the division, either in support of or in opposition to the relief being requested, and who is granted the right to*

*participate as a party.]*

[(11)](9) Municipality *[includes]* - a city, town, village, county, or other political subdivision.

[(12)] Participant without intervention means any person allowed by the division to take part in a proceeding before it without formal intervention or designation as a party.]

[(13)](10) Partnership *[is]* - an association of two (2) or more persons to carry on as co-owners a business for profit and includes a registered limited liability partnership.

[(14)](11) Party *[includes]* - any applicant, complainant, or respondent and any person having intervened in proceedings before the division.

[(15)](12) Person *[includes]* - any individual, business entity, or governmental entity.

[(16)] Pleading means any application, complaint, petition, answer, protest or motion made to the division, including any appendices, documents and exhibits attached to or incorporated by reference in the pleading.]

(13) Private crossing - a highway-rail or pathway crossing, either at-grade or grade separated, that is not a public crossing because the crossing is privately owned and intended for use solely by the owner and/or the owner's licensees and invitees.

(14) Public crossing - a highway or pathway that crosses one (1) or more railroad tracks, either at-grade or grade separated, where the highway/pathway approaches to the crossing are under the jurisdiction of, and maintained by, a public authority and open to public travel. All of the approaches must be under the jurisdiction of the public authority and no approach may be located on private property.

[(17)] Respondent means any person against whom any complaint is filed or to whom an order or notice is issued by the division on its own initiative instituting a proceeding or an investigation.

(18) Shipper means the person who controls the transportation provided by a carrier, and refers to the actual shipper rather than an intermediary. The shipper may be nominally either the consignor or consignee, but must be one or the other. The payment of the charges for the transportation is evidence that the person who pays is the person who controls the transportation, and the person who pays is presumed to be the shipper. However, this presumption is rebuttable, and can be rebutted by evidence demonstrating that a person not paying the transportation charges actually controls the selection of the carrier and the routing of the shipment, who would be presumed to be the shipper in such an instance.

(19) Single State Registration System (SSRS) Procedures Manual means the procedures manual for the registration of interstate motor carrier operations in this state under the authority of the Interstate Commerce Commission (ICC), which implements the SSRS under Section 4005 of Title IV of P.L. 102-240 (49 U.S.C. 11506), and which is adopted by the division.]

*AUTHORITY:* section 622.027, RSMo [1994] 2016. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For inter-

vening history, please consult the *Code of State Regulations*. Moved and amended: Filed March 9, 2018.

*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 [4]7—DEPARTMENT OF [ECONOMIC  
DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad  
Safety  
Chapter [2]8—[Practice and Procedure] Railroads**

**PROPOSED AMENDMENT**

[4]7 CSR 265-[2]8.300 **Railroad Safety Applications (Other Than Railroad-Highway Crossings)**. The Missouri Highways and Transportation Commission is moving the rule to Title 7, amending sections (1) and (2) and adding new subsections (2)(A) and (2)(B).

*PURPOSE:* This amendment moves the rule from Title 4 to Title 7, revises the rule to delete an obsolete reference to the administrative law judges, authorizes the division director to decide a railroad safety matter raised under an application to the commission if a hearing is waived by all parties to the application or refer the case to the Administrative Hearing Commission, and eliminates unnecessary restrictive language.

(1) Except as otherwise provided under [4 CSR 265-2.320] 7 CSR 265-8.320, persons **other than division staff** filing applications for [division] **commission** orders involving railroad safety matters shall file in writing an original *[plus four (4) copies of the]* completed application with the director of the division, in accordance with this section *[and 4 CSR 265-2.080. Every application shall include]* that includes at least the following information:

(J) Date and signature of the applicant or the applicant's authorized representative, and the signature, name (typed or printed), address, and telephone **number** of the applicant's attorney, if any; and

(2) *[It shall be in the discretion of the administrative law judge to convene a hearing regarding the application or to decide the case based on the application and other documents filed, except when a hearing is required by law.]* The application is to be decided under one (1) of the following methods:

(A) The division director decides and issues an order on behalf of the commission based on the application and all other documents filed in those cases in which all parties to the application have waived a hearing in writing; or

(B) The division director refers the application to the Administration Hearing Commission per Chapter 621, RSMo if all parties have not waived a hearing in writing or a hearing on the application is required by law.

*AUTHORITY:* section 622.027, RSMo [1986] 2016. Original rule



filed Nov. 4, 1992, effective July 8, 1993. Moved and amended: Filed March 9, 2018.

**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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION**  
**Division 265—[Division of] Motor Carrier and Railroad Safety**  
**Chapter [2]8—[Practice and Procedure] Railroads**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-[2]8.320 Railroad-Highway Crossing Applications.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, deleting the “Questionnaire for Grade Separation” and “Questionnaire for New Grade Crossing” forms, and subsections (1)(J) and (1)(L); amending sections (1), (2), and subsection (1)(H), adding new subsections (2)(A) and (2)(B); and renumbering the remaining subsections (1)(K), (1)(M), (1)(N), and (1)(O).

**PURPOSE:** This amendment moves the rule from Title 4 to Title 7, amends the rule to reflect current procedures, removes two (2) forms to give greater applicant flexibility to submit applicant information, deletes the now obsolete requirement that an application state the amount of funds from the grade crossing account for proposed safety improvements, deletes an obsolete reference to administrative law judges, authorizes the division director to decide a railroad safety matter raised under an application to the commission if a hearing is waived by all parties to the application or refer the case to the Administrative Hearing Commission, and eliminates unnecessary restrictive language.

(1) Persons **other than division staff** filing applications for a [division] **commission** order relating to the location, construction, installation, operation, maintenance, apportionment of expenses, use, warning devices, alteration, relocation, reconstruction, separation of grades, abolishment or closure of a railroad-highway crossing, at grade or otherwise, shall file in writing an original [plus four (4) copies of the] application with the director of the division[,] in accordance with this section[,] and [4 CSR 265-2.080, 4 CSR 265-8.070 and] [4]7 CSR 265-8.071[, whenever applicable. Every application and shall include] **that includes** at least the following information:

(C) The location and description of each highway at each crossing affected by the application, including, whenever applicable:

1. Name of highway;
2. Highway classification and number;
3. United States Department of Transportation (U.S. DOT) crossing inventory number;
4. City;
5. County;
6. Number and direction of traffic lanes;

7. Width of highway at crossings;
8. [Who] **The entity that** maintains the highway on each side of the railroad tracks;
9. Type of highway surface;
10. Type of highway traffic and average annual daily traffic, if known;
11. Highway speed limit;

(F) Statement of whether there is any agreement between the parties in interest with reference to the proposed construction, safety improvements or other relief, or with reference to the proposed allocation of costs/. If so, a/[with a copy of the executed agreement [shall be], if applicable attached [to the application] as Exhibit 1;

(G) Description of the proposed construction, safety improvements, or other relief requested, and who should be ordered to perform the same/. Detailed] **with a copy of detailed** plans and specifications for the proposed construction, safety improvements, or other relief requested [shall be] attached [to the application] as Exhibit 2;

(H) **Detailed** [E]estimated costs of the proposed construction, safety improvements or other relief requested, [and who] **the party that** should be ordered to pay these costs, [and whether] **the federal, state, political subdivision, and/or private funds [are]** available for the crossing costs [under any federal or federal-aid act], and how the costs should be allocated between these payers. [The application shall state whether or not any portion of the costs are requested to be paid out of the grade crossing account under Chapter 152, RSMo, or the grade crossing safety account under section 389.612, RSMo Supp. 1997, and if so, in what amounts.] **These [D]**detailed cost estimates for the proposed construction, safety improvements, or other relief shall be attached to the application as Exhibit 3;

[(J) If the use of funds from the grade crossing account under Chapter 152, RSMo, is requested, the application shall state the amount of funds available to the county in which the crossing is located (or the City of St. Louis, if applicable) pursuant to the allocation of the tax under that chapter to that county (or city) based upon the total main line track mileage of railroads in that county (or city) and whether or not the estimated costs of the proposed construction, safety improvements or other relief requested will exceed that county’s (or city’s) limitation under that chapter and whether or not the crossing is highly dangerous to the public so as not to come within that limitation. The application also shall state the approximate amount of funds in the grade crossing account and whether the expected expenditure called for will exceed the funds in that account in the fiscal year in which the expenditure is to be made;]

[(K)](J) Detailed statement of the specific reasons why the proposed relief should be granted;

[(L) If an applicant other than the division staff requests the construction of a new grade crossing, then a completed Questionnaire for a New Grade Crossing for each new crossing should be attached to the application as Exhibit 4. If the applicant requests the construction or reconstruction of a grade separation structure, then a completed Questionnaire for Grade Separation for each structure should be attached to the application as Exhibit 4. The questionnaire forms may be obtained from the division’s main office in Jefferson City, Missouri or by telephoning (573) 751-7121;]

[(M)](K) Statement of whether the applicant waives a hearing, and will submit the case to the division for decision upon the verified pleadings and other evidence of record, if no other party requests a hearing;

[(N)](L) Date and signature of the applicant or the applicant’s authorized representative, and the signature, name (typed or printed), address, and telephone number of the applicant’s attorney, if any; and

[(O)](M) Verification under oath or penalty of perjury.

(2) [It shall be in the discretion of the administrative law judge to convene a hearing regarding the application or to decide the case based on the application and other documents filed, except when a hearing is required by law.] The application is to be decided under one (1) of the following methods:

(A) The division director decides and issues an order on behalf of the commission based on the application and all other documents filed in those cases in which all parties to the application have waived a hearing in writing; or

(B) The division director refers the application to the Administration Hearing Commission per Chapter 621, RSMo if all parties have not waived a hearing in writing or a hearing on the application is required by law.

*AUTHORITY:* section 622.027, RSMo [Supp. 1997] 2016. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed March 9, 2018.

*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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 265—Division of Motor Carrier and Railroad  
Safety  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 265-2.322 Approved Installation of Stop Signs at Highway-Rail Grade Crossings.** This rule set forth the procedures adopted by the division for the installation of stop signs at highway-rail grade crossings.

*PURPOSE:* This rule is being rescinded because effective with the 2009 edition the Manual on Uniform Traffic Control Devices for Streets and Highways now requires either a stop or yield sign at every highway-rail grade crossing equipped with passive warning devices and includes guidance for any use of a stop sign at passive crossings.

*AUTHORITY:* section 622.027, RSMo Supp. 1997. Original rule filed June 22, 1998, effective Feb. 28, 1999. Rescinded: Filed March 9, 2018.

*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 [4]7—DEPARTMENT OF [ECONOMIC  
DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad  
Safety  
Chapter [2]8—[Practice and Procedure] Railroads**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-[2]8.324 Changes to Highway-Rail Grade Crossing Active Warning Devices.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, adding a new Publisher's Note, and amending sections (1), (2), (3), and subsection (2)(D).

*PURPOSE:* This amendment moves the rule from Title 4 to Title 7, revises the rule to reflect current procedures, deletes obsolete references to the administrative law judge, eliminates unnecessary restrictive wording, deletes a requirement that the department retain all written notices of minor warning device changes, and updates the references to the regulations in 49 CFR Part 234 that are incorporated into this rule.

*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) Major changes to existing highway-rail grade crossing active warning devices shall not be made unless an application is filed with the division under [rule 4]7 CSR 265-[2]8.320, and the proposed major change is approved by a specific **commission** order [of the division's administrative law judge]. Major changes include:

(2) Minor changes to existing highway-rail grade crossing active warning devices may be made by a railroad without a specific application to the division or a specific **commission** order [from the administrative law judge], but only if all of the conditions and requirements of this rule are met in regard to the particular crossing when the warning devices, as modified, are placed in service. The changes described below are minor changes when they result in equal or improved operating characteristics of the warning system, and they conform with all applicable requirements of the division's rules and the [Federal Railroad Administration's] regulations under 49 CFR [p]Part 234[:], **incorporated herein by reference and made a part of this rule as published October 1, 2016 by the Federal Railroad 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 this rule:**

(D) Changes in the physical location of warning devices, signal bungalows, or other components of the active warning system, as compared to the plans **previously** filed with the division and approved by **division or commission** order [of the administrative law judge], but only if—

1. The actual location of the signal masts, as placed in service at the crossing, is within the following limits:

A. Not less than twelve feet (12') nor more than twenty feet (20') from the nearest rail of the railroad tracks; and

B. Not less than eight feet, one inch (8'1") nor more than twelve feet (12') from the nearest edge of the traveled roadway, if the

nearest edge has no curb and no shoulder or a shoulder less than four feet (4') wide; or

C. Not less than four feet, one inch (4'1") nor more than eight feet, one inch (8'1") from the nearest edge of the traveled roadway, if the nearest edge has no curb and has a shoulder that is four feet (4') wide or greater; or

D. Not less than four feet, one inch (4'1") nor more than twelve feet (12') from the nearest edge of the traveled roadway, if the nearest edge has a curb;

2. The actual location of the signal bungalow, as placed in service at the crossing, is not less than twenty-five feet (25') from the nearest rail and not less than thirty feet (30') from the nearest edge of the traveled roadway;

3. The actual location of the device, bungalow or other component, as placed in service at the crossing, is in a different quadrant than that shown in the plans **previously** filed with the division and approved by **division or commission order** [of the administrative law judge], and the change of quadrant for the particular device, bungalow or component at that crossing, is agreed to by the railroad and approved in writing by the division's [railroad safety program administrator, railroad safety program specialist, or railroad safety inspector] **director and/or the director's designee**; and

4. The party responsible for installing the warning devices files with the division, within thirty (30) days after completing the installation, a revised plan sheet showing the warning devices, bungalow, and other components in their actual locations (as installed), which the division [shall incorporate] **then incorporates** in an amended order.

(3) The party responsible for making any minor change to a highway-rail grade crossing active warning device shall notify the division of the minor change, in writing, not later than thirty (30) days after the completion of the minor change. The notice shall include the United States Department of Transportation (USDOT) crossing inventory number and a description of all the changes. [The division shall keep a permanent record of all written notices of minor changes received by the division.]

**AUTHORITY:** section 622.027, RSMo [Supp. 1997] 2016. Original rule filed June 22, 1998, effective Feb. 28, 1999. Moved and amended: Filed March 9, 2018.

**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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION**  
**Division 265—[Division of] Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

[4]7 CSR 265-8.010 Accidents. The Missouri Highways and Transportation Commission is moving the rule to Title 7 and amending sections (1), (2), and (3), subsections (1)(A), (1)(C), (2)(A), and (2)(B).

**PURPOSE:** This amendment moves the rule from Title 4 to Title 7, incorporates the federal definition of hazardous material into the rule, specifies when a railroad shall provide notice of an accident, updates and incorporates the reference to federal regulations for hazardous material reporting and accident reporting consistent with such federal regulations, and eliminates unnecessary restrictive wording.

**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) Every railroad and street railroad corporation engaged in business in this state is [ordered] to give notice to this division of railroad accidents **and incidents** as set forth in this rule.

(A) The division will be furnished with prompt telephone notice, twenty-four (24) hours a day for the following accidents/incidents:

1. Hazardous material incident. [At the earliest practicable moment, each carrier who transports hazardous materials shall give notice, in accordance with subsection (1)(C) of this rule, after] **For the purposes of this rule, the term hazardous material has the same meaning as found in Title 49, Code of Federal Regulations (CFR), Part 171.8, which is incorporated herein by reference and made a part of this rule as published October 1, 2016 by the Pipeline and Hazardous Materials Safety 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 this rule.** /e/Each incident that occurs during the course of transportation of hazardous materials (including loading, unloading, and temporary storage) in which as a direct result of hazardous materials—

A. A person is killed;

B. A person receives injuries requiring his/her hospitalization;

C. Estimated carrier or other property damage exceeds fifty thousand dollars (\$50,000);

D. Fire, breakage, spillage, or suspected radioactive contamination occurs involving shipment of radioactive material;

E. Fire, breakage, spillage, or suspected contamination occurs involving shipment of etiologic agents; or

F. A situation exists of a nature that, in the judgment of the carrier, it should be reported in accordance with subsection (1)(C) of this rule even though it does not meet the criteria of subparagraphs [(1)(A)1.A., B. or C. of this rule] **A., B., or C., of this paragraph 1.**, for example, a continuing danger to life exists at the scene of the incident;

2. Major railroad accident. All derailments, collisions, or other train accidents when ten (10) or more cars derail on trackage where trains operate at speeds greater than ten (10) miles per hour; and

3. Fatal grade crossing accident. All accidents which occur at grade crossings that involve railroad rolling equipment which results in a fatality.

(C) Reports made in accordance with subsections (1)(A) and (B) of this rule [will] **are to—**

1. Be made to the [Railroad Safety Section] **division** at (573) 751-4291; and

2. Provide the following information:

A. Name of the official making report;

B. Phone number where the official can be reached;

C. Name of the carrier involved;

D. Date, time, location, and type of accident;

E. Equipment involved, if the information is available;

F. Classification, name, and quantity of hazardous materials involved if the information is available; and

G. Number of persons killed or injured.

(2) [A] Written Accident Report [of the Accident Shall Be] Prepared [by the Railroads or Street Railroads].

(A) Each railroad or street railroad which submits a report of Hazardous Materials Incident in accordance with paragraph (1)(A)1. of this rule shall file a copy of the report made to the United States Department of Transportation as required in 49 CFR 171.16 [which is incorporated by reference in this rule,] to the division within the same time period as prescribed by the United States Department of Transportation. **49 CFR 171.16 is incorporated herein by reference and made a part of this rule as published October 1, 2016 by the Pipeline and Hazardous Materials Safety 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 this rule.**

(B) Each railroad or street railroad shall submit to the division a monthly report of all accidents which must be reported to the United States Department of Transportation [and shall include] that includes all other accidents at grade crossings involving rolling equipment of which the railroad has knowledge. The form of these reports shall be the same forms as required by the United States Department of Transportation. *The monthly reports of accidents shall be prepared in accordance with the Federal Railroad Administration (FRA) Guide for Preparing Accident/Incident Reports, which is hereby incorporated by reference [in this rule] and made a part of this rule as published May 23, 2011 by the Federal Railroad 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 this guide.*

(3) Upon division request, [T]he details of any accident or delay to traffic not specifically provided for in this rule[, upon request,] shall be immediately furnished to the division [immediately] by the [common carrier] railroad or street railroad corporation.

*AUTHORITY: section 622.027, RSMo [Supp. 1997] 2016. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed March 9, 2018.*

*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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad Safety  
Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.012 Dedicated Railroad Telephone.** The Missouri Highways and Transportation Commission is moving the rule to Title 7 and amending sections (1) and (2) of the rule.

*PURPOSE: This amendment moves the rule from Title 4 to Title 7 and eliminates unnecessary restrictive wording.*

(1) Unless permission has been received from the division for a variance, every railroad operating within this state shall maintain [a] **an emergency** telephone number twenty-four (24) hours a day at a location from which the railroad has immediate communication with the dispatcher or other railroad employees having control over the movement of trains. *[The railroad shall use this telephone number only for the purpose of receiving emergency communications.]*

(2) The railroad shall **use the emergency telephone only for the purpose of receiving emergency communications** and provide this division with the following:

*AUTHORITY: section 622.027, RSMo [1986] 2016. Original rule filed May 2, 1991, effective Dec. 9, 1991. Moved and amended: Filed March 9, 2018.*

*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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad Safety  
Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.018 Signs.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, adding a publisher's note, deleting section (3), amending sections (1) and (2), and amending subsections (1)(A), (1)(B), and (1)(C).

*PURPOSE: This amendment moves the rule from Title 4 to Title 7, aligns the retroreflectivity standards in the rule to those in the Manual on Uniform Traffic Control Devices and eliminates unnecessary restrictive wording.*

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

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be*

made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) All crossing warning signs, track switch position indicators, and close clearance-warning signs [hereafter ordered by the division and those existing signs when hereafter replaced] shall [conform to the requirements of this rule.]—

(A) [The sign shall b]Be covered with a retroreflectorized material to show the same shape and color by day or night[.];

(B) [The] Use retroreflectorized material [used shall have the reflective intensity value not less than the values specified in Table II of the Federal General Services Pamphlet LS 300-C, March 20, 1979 or the equivalent.] that meets or exceeds the minimum levels specified in the Manual on Uniform Traffic Control Devices (2009 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](http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/pdf_index.htm). This rule does not incorporate any subsequent amendments or additions of this manual; and

(C) [The signs shall b]Be maintained in a reasonably clean condition and replaced when [they] the signs have been moderately impaired by wear or damage.

(2) In those cases where the division determines that retroreflectorization will not perform effectively, the division[,after a hearing,] may require the use of appropriate illumination for the signs.

[(3) It is recognized that technological progress may develop new and satisfactory or superior materials in the field of illumination and reflectorization. This rule does not exclude any new material that meets the standard requirements for color and legibility, by day or night.]

**AUTHORITY:** section 622.027, RSMo [1986] 2016. Original rule filed May 2, 1991, effective Dec. 9, 1991. Moved and amended: Filed March 9, 2018.

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

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

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

**Title [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad Safety  
Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

[4]7 CSR 265-8.020 Track Switch Position Indicators. The Missouri Highways and Transportation Commission is moving the rule to Title 7, deleting sections (2) and (3), subsections (4)(B) and

(5)(B), amending sections (1), (4), and (5), and amending subsections (4)(A), (4)(C), (5)(A), (5)(C), and (5)(D), and renumbering sections (4) and (5) accordingly.

**PURPOSE:** This amendment moves the rule from Title 4 to Title 7, eliminates all references in the rule to oil lamps because these are no longer used in the railroad industry, updates terminology for retroreflectivity, and eliminates unnecessary restrictive wording.

(1) Railroads operating within Missouri [are authorized to substitute for oil lamps] may use on main line switches either retroreflectorized lenses or retroreflectorized targets in accordance with the provisions of this rule.

[(2) Any railroad desiring to use reflectorized lenses or reflectorized targets as substitute for oil lamps shall give notice, in writing, to the Division of Motor Carrier and Railroad Safety at least thirty (30) days prior to their installation, describing the section of track and location of the proposed reflectorized lenses and reflectorized targets. In the letter of notification, the railroad shall describe the topography, grade and track configuration at the switch location in order that a determination can be made as to whether the locomotive headlights will shine on the lenses or targets at a sufficient distance to provide reasonable and safe visibility for the train crew members. The division, without a hearing, shall determine immediately if it will permit this use and shall transmit its written approval to the applicant railroad, which shall then make the installation.

(3) Those railroads now having specific approval from this division for the installation and use of the reflectorized targets or lenses shall be considered to have complied with this rule as long as the installation and use of the reflectorized targets and lenses complies with the specifications and requirements contained in this rule.]

[(4)](2) [If] Retroreflectorized targets [are substituted for oil-burning lamps] used on main lines covered by the requirements of section 389.710, RSMo, [they] shall [meet the following specifications:]—

(A) [They shall b]Be mounted to show a red aspect that is at least one hundred forty (140) square inches in area whenever the switch is lined against the main line; and

[(B) The red aspects shall be at least one hundred ten (110) square inches in area; except that every switch target that is first installed in this state after the effective date of this rule shall have red aspects, each of which is not less than one hundred forty (140) square inches in area; and any switch target that is already in service on the effective date of this amendment shall be retrofitted not later than January 1, 2001, or if it is replaced or altered before January 1, 2001, then it shall be retrofitted when it is replaced or altered, so that each red aspect is not less than one hundred forty (140) square inches in area; and]

[(C)](B) [The additional] Meet the retroreflectivity and maintenance requirements [set forth] in [4]7 CSR 265-8.018.

[(5)](3) [If] Retroreflectorized lenses [are to be substituted for oil-burning lamps] used on main lines covered by the requirements of section 389.710, RSMo, [they] shall [meet the following specifications:]—

(A) [They shall b]Be mounted to show a red aspect that is at least four and five-eighths inches (4 5/8") in diameter or seventeen and two-thirds (17 2/3) square inches in area whenever the switch is lined against the main line;

[(B) Each aspect shall be at least four and five-eighths inches (4 5/8") in diameter or seventeen and two-thirds (17

2/3) square inches in area;]

[(C)](B) [The lenses shall b/Be sealed against dust and moisture by a smooth plastic covering; and

[(D)](C) [The additional] **Meet the retroreflectivity and maintenance** requirements set forth in [4/7] CSR 265-8.018.

**AUTHORITY:** section 622.027, RSMo [Supp. 1997] 2016. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed May 2, 1991, effective Dec. 9, 1991. Amended: Filed June 22, 1998, effective Feb. 28, 1999. Moved and amended: Filed March 9, 2018.

**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 [4/7]—DEPARTMENT OF [ECONOMIC  
DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad  
Safety  
Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4/7] CSR 265-8.030 Visual Obstructions at Public Grade Crossings.** The Missouri Highways and Transportation Commission is moving the rule to Title 7 and amending sections (2) and (3) of this rule.

**PURPOSE:** This amendment moves the rule from Title 4 to Title 7 and eliminates unnecessary restrictive wording.

(2) Railroads operating within Missouri are required to maintain certain minimum distances from the near edge railroad crossings to railroad rolling stock stored on sidings. Stored rolling stock as used in this rule [shall be defined as] **means** rolling stock not used for the pickup or delivery of freight and whose placement on a railroad-owned siding by a railroad is for the sole convenience of the railroad. The minimum distance for the storage of railroad rolling stock shall be two hundred fifty feet (250') unless the division [shall find] **determines** a lesser or greater distance is [required] **necessary** at a particular location and [shall] permits or orders a railroad to maintain the lesser or greater distance. If physical conditions require the use of a track temporarily or minimum distances cannot be obtained, then the provisions of this section shall not apply to—

(3) The provisions of this section [shall] **do** not apply to rolling stock stored on yard tracks unless the division [after a hearing shall] orders otherwise.

**AUTHORITY:** section 622.027, RSMo [1986] 2016. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed May 2, 1991, effective Dec. 9, 1991. Moved and amended:

Filed March 9, 2018.

**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 [4/7]—DEPARTMENT OF [ECONOMIC  
DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad  
Safety  
Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4/7] CSR 265-8.032 Temporary Closing of a Public Grade Crossing.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, amending sections (1) and (2), and adding a publisher's note.

**PURPOSE:** This amendment moves the rule from Title 4 to Title 7 and changes the signing, work protection, and detour requirements from those in a 1988 Federal Highway Administration handbook to those contained 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) Whenever [it is necessary to close] a public grade crossing is **closed** for the purpose of maintaining or reconstructing the crossing surface or track structure, the railroad shall notify the proper road authority and the local law enforcement agency[,/] not less than seventy-two (72) hours in advance, except in emergency.

(2) When closing a grade crossing, the railroad shall conform to the requirements for signing, work protection, and detours outlined in the [Federal Highway Administration, U.S. Department of Transportation, *Traffic Control Devices Handbook (1988 edition).*] *Manual on Uniform Traffic Control Devices for Streets and Highways (2009 edition)*, which is incorporated 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](http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/pdf_index.htm). This rule does not incorporate any subsequent amendments or additions of this manual.

**AUTHORITY:** section 622.027, RSMo [Supp. 1997] 2016. Original rule filed May 2, 1991, effective Nov. 30, 1991. Amended: Filed June 22, 1998, effective Feb. 28, 1999. Moved and amended: Filed March

9, 2018.

**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 [4]7—DEPARTMENT OF [ECONOMIC  
DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad  
Safety  
Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.040 Transportation of Employees.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, amending sections (1), (2), (3), (4), and (5) subsections (2)(A), (2)(B), (2)(F), (2)(I), (5)(A), (5)(B), (5)(C), (5)(D), (5)(E), (5)(F), (5)(G), (5)(H), (5)(I), (5)(J), (5)(L), (5)(M), (5)(N), and (5)(O) adding new paragraphs (3)(A)1.-2., (3)(B)1.-4., (3)(C)1.-6., (4)(A), and (4)(B) deleting subsection (5)(D), and renumbering remaining subsections accordingly.

**PURPOSE:** *This amendment moves the rule from Title 4 to Title 7, removes references to 1966 and 1985 vehicles, updates the division name, removes a subsection duplicated elsewhere in the rule and eliminates unnecessary restrictive language.*

(1) This rule applies to every motor vehicle *[acquired after September 19, 1966,]* which is designed primarily for highway use and which is used to transport employees, whether or not used on a public highway, including motor vehicles regularly assigned to a gang or crew with headquarters or assembly point within Missouri and including motor vehicles headquartered elsewhere but frequently used in Missouri. *[Motor vehicles owned or operated prior to July 1, 1985 are not required to conform with this rule, but motor vehicles purchased, leased or otherwise acquired after July 1, 1985, including those previously used in other states and reassigned for regular use in Missouri, but not including existing vehicles assigned to system gangs even though the system gangs may be temporarily working in Missouri, shall conform to this rule.]* This rule *[shall]* does not apply to taxicabs or other vehicles licensed by a competent authority to transport the public and used by a railroad to transport its employees. All owners of the motor vehicles, and their duly appointed agents, and the drivers of the vehicles shall abide by all safety orders issued to them by the division. It is recognized that this rule cannot cover all contingencies, *[and accordingly,]* thus the division, *[upon written application or upon its own motion,]* in a particular case, after notice *[and hearing]*, may modify or grant exceptions to any of its provisions where their effect is unduly burdensome, or may prescribe higher standards than these prescribed where the higher standards are necessary for the safety of employees. In time of emergency, vehicles not complying with this rule may be used. An emergency *[shall be considered as existing]* exists when rail traffic has been stopped

or disrupted (or where there is a threat of stoppage or disruption) because of derailment, accident, storm, fire, flood, or other similar condition. Winter weather requiring the removal of snow and ice from flange ways and switches or station platforms *[shall]* is not *[be]* considered an emergency, *[except as noted].*

(2) The following words and phrases as used in this rule *[shall]* mean:

(A) Division—the **Multimodal Operations Division within the Department of Transportation;**

(B) Employee—an individual employed for any period in any work for which s/he is compensated, whether full- or part-time, whose regular course of employment is related to the maintenance or construction of the railroad physical property or to the operation of trains;

(F) Motor vehicle—any vehicle which is self-propelled and designed primarily for highway use, and which may *[or may not]* be equipped with retractable flange wheels for operation on railroad tracks;

(I) Rear compartment—a crew cab, which may be a continuation of the driver's cab providing additional seating capacity or an auxiliary cab located directly behind the driver's cab. **Canvas-covered truck beds or shelters built of wood, plywood, or light-gauge metal on the bed of a truck are not considered a rear compartment;**

(3) *[Employees will be transported in a]* **Vehicle** rear compartments *[which]* for the transportation of employees may be either a continuation cab or an auxiliary cab.

(A) *[If a]* A continuation cab, *it should be*—

1. Is designed and furnished by the motor vehicle manufacturer as a continuation of the driver's cab and of equal strength, all welded construction with box section beams throughout. *In this type of cab no communication system between the rear compartment and the driver is required.;* and

2. Does not require a communication system between the rear compartment and driver.

(B) An auxiliary cab—

1. *[i]* Is a rear compartment separated from the driver's cab. *It shall be,* of metal construction (including top), welded or riveted, with interior lining, equipped with adequate padded seats and back rests firmly secured in place.;

2. *[It shall be]* Is fastened directly to the frame of the motor vehicle and not to the surface of the bed of the vehicle.;

3. *[When necessary, it shall be]* Is equipped with steps and hand holds when necessary.;

4. Is equipped with a *[C]* communication system between *[this type of]* the auxiliary cab and the driver *[may be in the form of]* including, but not limited to: a light mounted on the instrument panel *[or]*, an audible device *[that can be]* operated by the employees riding in the rear compartment.;

*[A]* an intercommunication system for actual voice contact *[also may be used]*. Communication systems *[must]* are to be kept in good working condition at all times.;

(C) Both *[types of]* continuation and auxiliary cabs are to be equipped with—

1. *[shall be provided with a]* A heating system for cold weather and a ventilation system for hot weather, providing heat and ventilation substantially equal to that provided for the driver.;

2. Exhaust systems *[shall be]* so designed as to prevent exhaust fumes from entering the rear compartment.;

3. Heavy duty hinge-type doors *[shall be provided,]* equipped with automotive-type safety latches.;

4. *[All windows shall be of]* Windows with safety glass *[as required by Missouri law]* per Chapter 307, RSMo.;

5. *[Where a compartment is equipped with only one (1) door, a]* At least one (1) window *[shall be]* of the knockout type and of sufficient size to provide emergency exits for the employees in

those compartments equipped with only one (1) door[.]; and

6. [All vehicles shall have a] Adequate seating capacity for the number of employees carried. [Canvas-covered truck beds or shelters built of wood, plywood or light-gauge metal on the bed of a truck shall not be considered as a rear compartment.]

(4) All vehicles [shall] subject to this rule are to be—

(A) [k/Kept in good repair and safe operating condition at all times and unsafe vehicles [shall] not [be] used to transport employees[.]; and

(B) [They shall be r/Regularly inspected and tested[.] and [C]compartments for employees [shall be] kept in a clean and sanitary condition [and employees shall cooperate in maintaining the conditions].

(5) [In transporting employees, t/The following safety measures [shall be observed] apply to vehicles used to transport employees:

(A) The [vehicles shall be especially built or modified for transporting employees in] compartments used for transporting employees are separate from space used to transport tools, material, and equipment for the employees;

(B) [All vehicles used for the transportation of employees shall carry a] An adequate first-aid kit suitable for the number of employees transported is equipped and accessible;

(C) [Each vehicle used to transport employees shall be equipped with e/Either a two- (2-)[-] pound dry chemical-type or a four- (4-)[-] pound carbon dioxide-type fire extinguisher approved by the Underwriters' Laboratories, Inc. (UL)]. These are minimum capacities. Toxic vaporizing liquid-type fire extinguishers, such as those containing carbon tetrachloride or chlorobromethane, will not be permitted] is furnished and accessible;

[(D) Racks, boxes, holsters or equivalent means shall be provided and arranged so employees will not be endangered by tools or equipment while being transported, loaded or removed;]

[(E)](D) [To prevent materials being transported on f/Flatbed trucks used in the transportation of employees are equipped with a suitable front-end gate to prevent materials from shifting against the cab or rear compartment[, a suitable front-end gate must be provided];

[(F)](E) Only authorized, experienced, competent, qualified, and licensed drivers per Chapter 302, RSMo, not less than eighteen (18) years of age, [shall be] are permitted to operate the vehicles [used to transport employees. Qualification and license shall be not less than those required by Chapter 302, RSMo];

[(G)](F) [When the driver's compartment is separate from the compartment used to transport employees, t/The signals [adopted for] used on [the] a communication system [shall be simple and] are understood by both driver and employees in a vehicle where the driver's compartment is separate from the compartment used to transport employees;

[(H)](G) [No vehicle shall be] Not loaded [beyond] and operated, either: in excess of its safe carrying capacity or [beyond] its licensed capacity [when in] for use on public streets or highways/. No motor vehicle shall be driven if it is so loaded]; or if the load is so distributed or so inadequately secured as to prevent safe operation;

[(I)](H) [No motor vehicle shall be] Not driven when anything in, on or attached to the vehicle obscures the driver's view ahead or to either side, [or] interferes with the free movement of [his/her] the driver's arms or legs, [or] prevents [his/her] the driver's free and ready access to [his/her] the vehicle controls and emergency equipment, or prevents the free and ready exit of any person from the vehicle;

[(J)](I) [All vehicles transporting employees shall observe] Operated in compliance with all motor vehicle laws of Missouri;

[(K)](J) [No] Not used to haul explosives, except flagging equipment[, shall be hauled on any vehicle while it is engaged in transporting employees. This shall not prohibit the driver and one (1) qualified powder man from riding in a vehicle in which explosives are being hauled];

[(L)](K) Gasoline and other low flash-point liquids [shall] are not [be] hauled [in vehicles transporting employees] except when in UL-approved safety containers/. The containers shall be] carried in a safe, suitable location outside the passenger compartment [as far from the compartment as possible and where they] that will not block exits from the vehicle[, and firmly secured to prevent shifting;

[(M)](L) Occupants [shall] do not ride with any part of their bodies extending out over the side of the vehicle;

[(N)](M) [Employees wearing] Personal equipment which might injure a fellow employee [(spurs, exposed sharp tools and the like) shall remove that equipment] is removed before entering and while any vehicle [in which employees are being transported] is in operation; and

[(O)](N) Any hazardous condition or defect of a motor vehicle or unsafe practice of the driver or employees riding in vehicles used to transport employees [shall be] is reported [in writing] to the employer or supervisor as soon as possible by any employee having knowledge of the conditions.

*AUTHORITY: section 622.027, RSMo [1986] 2016. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Moved and amended: Filed March 9, 2018.*

*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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 265—Division of Motor Carrier and Railroad Safety

#### Chapter 8—Railroads and Street Railroads

#### PROPOSED RESCISSION

**4 CSR 265-8.041 Required Equipment for Railroad Motor Cars.** This rule prescribed what equipment should be found on self-propelled railroad motor cars.

*PURPOSE: This rule is being rescinded because self-propelled railroad motor cars are no longer generally used by railroads in this state.*

*AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed May 2, 1991, effective Dec. 9, 1991. Rescinded: Filed March 9, 2018.*



*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, Missouri 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 265—Division of Motor Carrier and Railroad Safety**

**Chapter 8—Railroads and Street Railroads**

**PROPOSED RESCISSION**

**4 CSR 265-8.050 Facilities for Employees.** This rule provided for the regulation of sanitation and shelter facilities for railroad, pullman and express company employees.

*PURPOSE: This rule is being rescinded because the requirements contained therein are substantially included in Title 29, Code of Federal Regulations (CFR), Parts 1910, 1926, and 1928 – the OSHA regulations.*

*AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed April 16, 1986, effective June 30, 1986. Rescinded: Filed March 9, 2018.*

*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, Missouri 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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION**

**Division 265—[Division of] Motor Carrier and Railroad Safety**

**Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.060 Structural Clearances.** The Missouri Highways and Transportation Commission is moving the rule to Title 7 along with Figures 1 through 4, deleting the old Publisher's Note and

adding a new Publisher's Note, deleting subsections (3)(J) and (4)(F), amending sections (1), (3), (4) and (6), and amending subsections (3)(B), (3)(C), (3)(F), (3)(G), (3)(H), (3)(I), (3)(J), (4)(B), (4)(F), (4)(I), and renumbering subsections (4)(G), (4)(H), and (4)(I) accordingly.

*PURPOSE: This amendment moves the rule from Title 4 to Title 7, removes all references to mail cranes because these are no longer used in the rail industry, updates the division name, incorporates rules found in the National Electrical Safety Code, and eliminates unnecessary restrictive wording.*

*[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. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.]*

*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) Effective March 15, 1951 no railway or railroad corporation, county, municipality, township or other corporation, firm, or person shall erect or cause to be erected any passenger or freight station platforms, or any permanent structure over or contiguous to any railroad track(s), switch, or siding, such as shop buildings, coal bins, manufacturing or industrial buildings, or any other structure whatsoever, so that the vertical and horizontal clearances are less than the prescribed minimum contained in this rule, unless permission *[shall have been]* is received from *[this]* the division for variance.

(3) The following horizontal clearance *[shall]* apply/ies to all steam and diesel railroads:

(B) Except as provided in this rule, no track *[shall]* may be constructed adjacent to any building or structure nor shall any signal post, switch stand, building, or any other structure be constructed adjacent to any track which has a horizontal clearance of less than eight feet six inches (8'6") from the center of track, measured at right angles, it being understood that the horizontal clearance of eight feet six inches (8'6") shall be maintained to a point sixteen feet (16') above the level of the top of rail, provided that the clearance line for structures other than buildings, retainers, guards, and low platforms may extend from a point four feet (4') above the top of rail, downward at an angle to a point five feet six inches (5'6") distant from the center line of track at a point which is level with the top of rail;

(C) Engine terminal and shop structures[,] such as engine houses, engine and car repair shops, cinder conveyors, and turntables[,] may be constructed with horizontal clearances of not less than six feet (6') from the center of terminal or shop tracks adjoining or entering them, provided that in every such case warning signs are erected at a suitable location at each end of the structures calling the trainmen's attention to insufficient clearance. The clearance requirements of this rule *[shall]* do not apply to working platforms and working structures inside of engine houses and repair shops;

(F) Loose materials, such as coal, sand, scrap iron, and the like, may not be stored or piled adjacent to a railroad track with a horizontal clearance at any point less than eight feet six inches (8'6") from the center of track, measured at right angle to, except as provided in this rule. A guard or retainer to hold the loose materials may be constructed with a horizontal clearance of not less than eight feet six inches (8'6") from the center line of track, measured at a right angle to the center. The horizontal clearance of eight feet six inches (8'6") shall be maintained to a retainer or guard height of sixteen feet (16') above the level of the top of rail. Along a freight track not in open thoroughfare, a retainer or guard, the top of which is approximately level with the floor of freight cars, may be constructed adjacent to but one (1) side of the track with a horizontal clearance of less than eight feet six inches (8'6") but not less than five feet nine inches (5'9") to the center line of track, measured at a right angle to the center, provided that in every such case warning signs shall be erected at a suitable location at each end of the retainer or guard directing the trainmen's attention to the insufficient clearance and prohibiting trainmen from riding the sides of cars while in motion. No individual, partnership, association, or corporation *[shall]* may store or pile loose material adjacent to a railroad track unless a retainer or guard with the clearances prescribed is erected, or unless, immediately after the piling of this material all such material not providing a clearance of eight feet six inches (8'6") to the center line of adjacent railroad tracks *[shall be]* is removed. Retainers or guards constructed to hold the loose materials shall not have a horizontal clearance less than the prescribed minimum in this subsection, unless permission has been received from the division to vary. This subsection *[shall]* does not apply to individuals, partnerships, corporations, trustees, or receivers owning or operating a railroad while engaged in the construction, maintenance, or repair of a railroad track or other structure;

(G) No railroad track unless specifically authorized by the *[D]*division *[of Transportation]*, shall be constructed after July 1, 1985 so that the center line of track is less than fourteen feet (14') from the center line of an adjacent track and no ladder track shall be constructed so that the center line of the ladder track is less than nineteen feet (19') from the center line of an adjacent ladder track or less than seventeen feet (17') from the center line of any other track. Any system of three (3) or more tracks at freight houses, warehouses, wharves, or similar structures, used exclusively for handling freight to or from platforms located on one (1) or both sides, may have track center distances of thirteen feet (13'), provided that at least two (2) tracks in one such system shall have centers not less than thirteen feet six inches (13'6") provided that no track having track center distances of less than fourteen feet (14') shall be used as a thoroughfare track. The distance between tracks may be diminished to the extent necessary for the construction of crossings, crossovers, gauntlet tracks, turnouts, switches, or radial tracks. The provisions requiring fourteen feet (14') distances between track centers *[shall]* do not apply *[to the construction of tracks in yards now under construction nor]* to the construction of tracks under viaducts or other overpasses which originally were designed to accommodate an additional track(s) at distances of less than fourteen feet (14') between track centers, if under that design the additional track(s) cannot be constructed with a distance between track centers of fourteen feet (14'). Permission to construct tracks with less clearance may be granted by the *[D]*division *[of Transportation]* if, after a thorough investigation *[and hearing]* in any particular case, it is determined that the construction would not create a condition unduly hazardous to railroad employees or other persons;

(H) At locations where low switch stands and dwarf signals are placed between tracks having track center distances of fourteen feet (14') or less, the horizontal clearance rule contained in subsection (2)(A) *[shall]* apply; **and**

(I) The horizontal clearances specified *[shall]* do not apply to automatic train stop wayside inductors provided the inductor does not extend more than three inches (3") above the level of the top of rail

and is not less than four feet two inches (4'2") from the center of track; *and*].

*[(J)]* *The horizontal clearances specified shall not apply to mail cranes provided the top arm of the mail crane when in position to support mail sacks for delivery is not above a point which is ten feet eight inches (10'8") above top of rail and does not extend within six feet five inches (6'5") from the center of track.*]

(4) The following horizontal clearances *[shall]* apply to all electric and street railroads:

(B) Platforms for loading and unloading of freight and express matter into or from cars of the passenger or express type, the tops of which are approximately level with the floors of the cars may be constructed adjacent to only one (1) side of a track which is not in open thoroughfare at a distance less than seven feet six inches (7'6") from the center of track. When these platforms are constructed with a clearance less than seven feet six inches (7'6"), the horizontal clearances shall not be less than four feet nine inches (4'9"), provided that in every such case warning signs *[shall be]* are erected at a suitable location at each end of the platform, calling trainmen's attention to insufficient clearance and prohibiting them from riding on the sides of cars while in motion;

*[(F)]* *The horizontal clearances specified in this section shall not apply to mail cranes, provided the top arm of the mail crane when in position to support mail sacks for delivery is not above a point which is ten feet eight inches (10'8") above top of rail, and does not extend within six feet five inches (6'5") from the center of the track;*]

*[(G)]*(F) In case of roads using passenger cars greater or less than nine feet (9') in width, a corresponding change in the specified horizontal clearances shall be used, it being understood that points five feet six inches (5'6") distant from the center of track and level *[of]* with the top of rail are fixed;

*[(H)]*(G) In city streets where the clearances between main tracks are such that the distance between the sides of passing cars is less than three feet (3'), the windows of all cars shall be equipped with bars, screens, or other suitable protective devices and all vestibule doors kept closed when cars are in motion; and

*[(I)]*(H) In case of roads using cars greater or less than nine feet (9') in width, a corresponding change shall be made in the horizontal clearance specified in this rule, provided that the specified clearance of three feet (3') between cars *[shall]* is not *[be]* varied.

(6) All wire, cable conductors, trolley wires, guards, guys, and other apparatus or fixtures used in connection when located upon, along, or across the property, or right-of-way of any railroad or railway system shall be constructed in conformance with the rules contained in the *National Electrical Safety Code (2012 Edition)*, incorporated herein by reference and made a part of this rule as published by the Institute of Electrical and Electronics Engineers, Inc., 445 Hoes Lane, Piscataway, NJ 08854-4141. This rule does not incorporate any subsequent amendments or additions of this code.

*AUTHORITY: section 622.027, RSMo [1986] 2016. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Moved and amended: Filed March 9, 2018.*

*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, Missouri 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 265—Division of Motor Carrier and Railroad Safety**

**Chapter 8—Railroads and Street Railroads**

**PROPOSED RESCISSION**

**4 CSR 265-8.070 Grade Crossing Account.** This rule prescribed the use of the grade crossing account for improvements of grade crossing.

*PURPOSE:* This rule is being rescinded because the relevant sections of Chapter 152, RSMo no longer exist.

*AUTHORITY:* section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed Jan. 5, 1989, effective April 27, 1989. Rescinded: Filed March 9, 2018.

*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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION**

**Division 265—[Division of] Motor Carrier and Railroad Safety**

**Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.071 Grade Crossing Safety Account.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, amending sections (2), (3), and (4), deleting sections (1), (5), (6) and subsection (3)(G), and renumbering sections (2) through (6).

*PURPOSE:* This amendment moves the rule from Title 4 to Title 7, updates the rule to reflect organizational, statute, and procedure changes, incorporates the cost standards in 23 CFR Parts 140 and 646, and eliminates unnecessary restrictive language.

*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) Use of the Grade Crossing Safety Account (account) to pay for installation, construction or reconstruction of automatic signals or other safety devices or other safety improvements at crossings of railroads and public roads, streets or highways may be initiated by a complaint of twenty-five (25) or more individuals filed with the Division of Transportation (division) within the Department of Economic Development, or by an application or complaint filed with the division by a governmental entity, railroad corporation, the division staff or any person who is a party to a proceeding under section 389.610, RSMo. Use of the account shall be limited as provided in section 1 of Senate Bill No. 765, 86th General Assembly, 2nd Regular Session (1992).]

[(2)](1) In [determining that portion] the division's determination of the costs [proportioned] to be apportioned to the state, county, municipality, or other public authority in interest[,] for the installation, construction, or reconstruction of automatic signals or other safety devices or other safety improvements at crossings of railroads and public roads, streets, or highways, which the division orders to be paid out of the **grade crossing safety account** (account) pursuant to section 389.610, RSMo, the division [shall] will compute those costs in accordance with [the current Federal Highway Administration's policy for reimbursement for railroad work.] **Title 23, Code of Federal Regulations (CFR), Part 140, Subpart I and 23 CFR Part 646, Subpart B, which is incorporated by reference and made a part of this rule as published October 1, 2016 by the Federal Highway 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 this rule.**

[(3)](2) [In all proceedings where the use of] **When the division considers making payments from the account [has been requested by any party] for safety devices or other safety improvements at railroad and highway crossings,** the division staff [shall, and any other party to the proceeding may present evidence on each of the following matters] **may consider the following information:**

(A) The costs of the proposed installation, construction, or reconstruction of the automatic signals or other safety devices or other safety improvements;

(B) Whether any part of those costs can be paid from funds available under any federal program or federal-aid highway act;

(C) The location of the crossing in question;

(D) The amount of funds in the account and whether the expected expenditure called for will exceed the funds in the fiscal year in which the expenditure is to be made;

(E) The approximate time for completion of the proposed installation, construction, or reconstruction, the approximate date for a payout of the funds, and the legal entity entitled to be reimbursed; **and**

(F) Whether or not interim payments should be made; and if so, the amount and conditions upon which those interim payments should be paid out[; and].

[[G] Whether any part of the costs of the installation, construction or reconstruction can be paid from the Grade Crossing Account, until all funds in the Grade Crossing Account created under Chapter 152, RSMo have been encumbered or expended.]

[(4)](3) The [division shall order the] party responsible for the installation, construction, or reconstruction [to] **project shall notify**

the division immediately upon **project** completion *[of the ordered installation, construction or reconstruction. Within] and eight (8) months after completion, [the party responsible for the installation, construction or reconstruction shall] furnish a written report to the division on the costs actually involved. [Railroad safety personnel of the d]Division staff [shall] may inspect the [installation, construction or reconstruction] project to determine if it has been completed in accordance with the division's order authorizing the work, [and in conjunction with the division's audit section shall] review the reported costs, and [shall file with the division] complete a report on the results of their review. Promptly after that, the division [shall] may issue its final [order] payment request authorizing the state treasurer to pay out of the account, to the person or entity entitled, the amount determined by the division to be due and [finally approved by the division, except that the division may order] payable, including progress payments [if it deems it advisable].*

*[(5) The division staff shall keep an accurate account of all grade crossing projects for which account funds have been obligated, encumbered and paid, and shall report an annual accounting of the use of the funds each year in order that the information may be included in the division's annual report.]*

*[(6) This rule shall govern all cases involving grade crossing safety improvements in which funds from the account are used, unless specifically ordered otherwise by the division.]*

**AUTHORITY:** section 622.027, RSMo [1986] 2016. Original rule filed Nov. 4, 1992, effective July 8, 1993. Moved and amended: Filed March 9, 2018.

**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, Missouri 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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION**  
**Division 265—[Division of] Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.080 Railroad-Highway Grade Crossing Warning Systems.** The Missouri Highways and Transportation Commission is moving the rule to Title 7 and deleting the marking diagrams, amending sections (1), (3), and (4), deleting section (2), and renumbering sections (3) and (4).

**PURPOSE:** This amendment moves the rule from Title 4 to Title 7, updates the references to the *Manual on Uniform Traffic Control Devices (MUTCD)* guidelines and the federal regulations in 49 CFR Part 234 that are incorporated into this rule. The amendment also

removes a pavement marking diagram as part of the published rule because this diagram is included in Part 8 of the MUTCD.

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

(1) The [D]division *[of Motor Carrier and Railroad Safety]* incorporates by reference in this rule Part [VIII] 8 of the *Manual on Uniform Traffic Control Devices [(MUTCD) (1988 Edition), as published by the Federal Highway Administration.] for Streets and Highways (2009 edition), which is incorporated 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/2009rlr2/pdf\\_index.htm](http://mutcd.fhwa.dot.gov/pdfs/2009rlr2/pdf_index.htm). This rule does not incorporate any subsequent amendments or additions of this manual. Part [VIII] 8, entitled "Traffic Control [Systems for Railroads-Highway Grade Crossing] for Railroad and Light Rail Transit Grade Crossings"* establishes standards for the design, installation, and operation of grade crossing warning devices. *[The Division of Transportation recommends that the standards in Part VIII be applied in the installation of all grade crossing warning systems in Missouri.] Unless a specific variance is granted by the division, the standards in Part 8 must be applied in the installation of all grade crossing warning systems in Missouri, except that only twelve- (12-) inch diameter lenses shall be used on flashing light signal units.*

*[(2) The division director finds it necessary to incorporate by reference in this rule Part VIII of the Manual on Uniform Traffic Control Devices (MUTCD) (1988 Edition), with the following changes:*

*(A) The following paragraph is added immediately after paragraph 8B-9 on page 8B-7:*

**8B-10 Crossing Inventory Number**

*The proper DOT/AAR crossing inventory number shall be displayed in a conspicuous location at each grade crossing;*

*(B) The sixth paragraph as contained in paragraph 8C-7 on page 8C-10 is deleted. This paragraph reads as follows: "Two sizes of lenses, 8-inch diameter and 12-inch diameter, are available for flashing light signal units. The larger lens provides somewhat better visibility. In choosing between the sizes of lenses, consideration should be given to the principles stated in section 4B-A for choosing between the 8-inch and 12-inch lenses for use in highway intersection traffic control signals.";*

*(C) The following paragraph is added immediately after paragraph 8C-7 on page 8C-10:*

**8C-8 Lens Dimensions**

*Only 12-inch diameter lenses shall be used on flashing light signal units, unless a specific exemption is granted by the division; and*

*(D) The following supplement to Figure 8-2 is added immediately after Figure 8-2 on Page 8B-4:]*

*[(3)](2) [After December 9, 1991, w]Whenever one (1) or more adjacent tracks (but fewer than all tracks), are physically removed from a grade crossing, or physically removed, except through a grade*

crossing, then the railroad(s) responsible for maintaining the grade crossing shall relocate the warning devices to a clearance of not less than twelve feet (12') nor more than twenty feet (20') from the center line of the nearest remaining track **within one hundred twenty (120) days after the date of actual removal of the track**, unless otherwise ordered by the division. *[The railroad(s) shall complete the relocation of the warning devices (whether active or passive) within one hundred twenty (120) days after the date of actual removal of the track, unless otherwise ordered by the division.]*

*[(4)](3) [The division adopts the requirements governing the safety of highway-rail grade crossing signal systems as adopted by the Federal Railroad Administration and published in Title 49, Code of Federal Regulations, part 234—Grade Crossing Signal System Safety, on October 1, 1997, and subsequent final rules published in the Federal Register, except that the division does not adopt the provisions of Appendix A to Part 234—Schedule of Civil Penalties, or any other provision the adoption of which would exceed the statutory authority of this division. These regulations include safety requirements relating to the reporting of signal system malfunctions, responding to such reports, and maintaining, inspecting and testing grade crossing signal systems.] The provisions governing the safety of highway-rail grade crossing signal systems published in Title 49, Code of Federal Regulations, Part 234, but not including Appendix A – Schedule of Penalties, are incorporated by reference and made a part of this rule as published October 1, 2016 by the Federal Railroad 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 this rule.*

*AUTHORITY: section 622.027, RSMo [Supp. 1997] 2016. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed March 9, 2018.*

*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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 265—Division of Motor Carrier and Railroad Safety  
Chapter 8—Railroads and Street Railroads**

**PROPOSED RESCISSION**

**4 CSR 265-8.090 Annual Report—State Statistics.** This rule set out the information that Class I railroads and all other railroads were required to file with the Division of Motor Carrier and Railroad

Safety.

*PURPOSE: This rule is no longer necessary as its provisions have been moved to 7 CSR 265-8.092.*

*AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed May 2, 1991, effective Dec. 9, 1991. Rescinded: Filed March 9, 2018.*

*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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad Safety  
Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.092 Railroad [Traffic Statistics] Reports.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, deleting the “Average Daily Railroad Train Traffic Movements-Within the State of Missouri” form, adding a Publisher’s Note, amending the title, the title statement and purpose, amending section (1) and subsections (1)(A) and (1)(B), and deleting subsection (1)(C) and adding new sections (2) and (3).

*PURPOSE: This amendment moves the rule from Title 4 to Title 7, removes the requirement for a railroad to provide a copy of its system rail traffic density diagram, and removes an average daily train traffic form as part of the published rule to provide greater flexibility to the department in the event this form is changed in the future. This amendment also adds new reporting requirements relating to rail operating revenues, mileage operated, track mileage, rail line operation statistics and freight carried, and incorporates the forms used for such reports into the rule by reference.*

*PURPOSE: This rule requires the notification by railroads operating within the state to file with the [D]ivision [of Transportation] certain traffic statistics for use as planning information in railroad safety studies.*

*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 railroads operating within the state shall file with the [D]division [of Transportation], within the time prescribed, each of the following documents:

(A) [Each railroad shall file t]Two (2) copies of their operating timetable not later than ten (10) days after the effective date of each issue;

(B) [Each railroad a]Annually [shall file with the division], on or before April 30 of each year, one (1) [original traffic] Average Daily Railroad Traffic Within Missouri report [which shall] for each line segment operated in the state, to be submitted on [Form MO 419-1757. The division shall timely provide each railroad with sufficient blank copies of Form MO 419-1757 to enable compliance with this rule; and] the form published February 29, 2016 by the Department of Transportation, 105 W. Capitol Ave., Jefferson City, MO 65101, which is incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments or additions of this form.

[(C) Each Class I railroad shall provide one (1) copy of its system rail traffic density diagrams showing the annual gross tonnage operated on each segment of its system within the state. The report shall be filed no later than April 30 of the following year.]

(2) All Class I railroads operating in Missouri shall annually complete the forms listed in subsections (A)–(E) of section (2) of this rule and file the completed forms with the division on or before April 30th of each year. The forms are incorporated by reference and made a part of this rule as such forms were published on February 29, 2016 by the Department of Transportation, 105 W. Capitol Ave., Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions of these forms:

(A) SC 210—Railway Operating Revenues Earned Within the State;

(B) SC 702—Mileage Operated at Close of Year—Within the State;

(C) Summary Statement of Track Mileage Within The State and of Titles Thereto at Close of Year;

(D) SC 931—Statistics of Rail-Line Operations—Within the State; and

(E) SC 941—Revenue Freight Carried During the Year—Within the State.

(3) All other railroads operating in Missouri are required to complete and annually file with the division on or before April 30th only the forms listed in subsections (A)–(C) of section (2) of this rule.

*AUTHORITY:* section 622.027, RSMo [1986] 2016. Original rule filed May 2, 1991, effective Dec. 9, 1991. Moved and amended: Filed March 9, 2018.

*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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION**  
**Division 265—[Division of] Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

[4]7 CSR 265-8.100 Track and Railroad Workplace Safety Standards. The Missouri Highways and Transportation Commission is moving the rule to Title 7 and amending sections (1) and (2).

*PURPOSE:* This amendment moves the rule from Title 4 to Title 7 and updates the references to the federal regulations in Title 49, Code of Federal Regulations, Parts 213 and 214 that are incorporated into this rule.

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

(1) The [D]division [of Motor Carrier and Railroad Safety] incorporates by reference in this rule the minimum safety standards for track and roadbed inspections for common carriers by rail, as adopted by the Federal Railroad Administration and published in Title 49, Code of Federal Regulations, [p]Part 213 [—Track Safety Standards, on October 1, 1997, and subsequent final rules published in the Federal Register], except that the division does not incorporate by reference any of the provisions of 49 CFR section 213.15—Civil penalty, or Appendix B to part 213—Schedule of Civil Penalties, or any other provision conflicting with applicable Missouri law. [These regulations include safety requirements relating to train speeds, roadbed, track geometry, track structure, track appliances, track-related devices, and inspections.] The aforementioned standards in Title 49, Code of Federal Regulations, Part 213, are incorporated by reference and made a part of this rule as published October 1, 2016 by the Federal Railroad 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 this rule.

(2) The division incorporates by reference in this rule the requirements governing the safety of railroad employees in the workplace as adopted by the Federal Railroad Administration and published in Title 49, Code of Federal Regulations, [p]Part 214 [—Railroad Workplace Safety, on October 1, 1997, and subsequent final rules published in the Federal Register], except that the division does not incorporate by reference any of the provisions of Appendix A to part 214—Schedule of Civil Penalties, or any other provision conflicting with applicable Missouri law. [These regulations include safety requirements relating to bridge worker safety standards and roadway worker protection.] The aforementioned standards in Title 49, Code of Federal Regulations, Part 214, are incorporated by reference and made a part of this rule as published October 1, 2016 by the Federal Railroad 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 this rule.

*AUTHORITY:* section 622.027, RSMo [Supp. 1997] 2016. Emergency rule filed June 14, 1985, effective July 1, 1985, expired

Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed June 22, 1998, effective Feb. 28, 1999. Moved and amended: Filed March 9, 2018.

**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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION**  
**Division 265—[Division of] Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.110 Walkway Safety Standards at Industrial Tracks.** The Missouri Highways and Transportation Commission is moving this rule and amending section (2).

**PURPOSE:** This amendment moves the rule from Title 4 to Title 7 and eliminates unnecessary restrictive wording.

(2) Except in cases in which the division finds that construction or reconstruction is impracticable, unnecessary, or where existing [in] structures or tracks prevent construction, walkways shall be constructed along each side of industrial railroad trackage a minimum of eight feet, six inches (8'6") from the center of track measured at right angles to the center. Walkways shall be reasonably level with the top of the railroad ties and beginning at the end of the railroad ties [shall], not exceed a drop of two inches (2") per foot to provide drainage and a surface reasonably level on which to walk as well as permit the safe performance of trackside duties, taking into consideration existing structures and tracks.

**AUTHORITY:** section 622.027, RSMo [1986] 2016. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Moved and amended: Filed March 9, 2018.

**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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 265—Division of Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads and Street Railroads**

**PROPOSED RESCISSION**

**4 CSR 265-8.120 Hazardous Material Requirements.** This rule prescribed the requirements governing the transportation of hazardous materials by railroads.

**PURPOSE:** This rule is being rescinded because the requirements contained therein are included in Title 49, *Code of Federal Regulations*, Parts 105-177.

**AUTHORITY:** section 622.027, RSMo Supp. 1997. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed June 22, 1998, effective Feb. 28, 1999. Rescinded: Filed March 9, 2018.

**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, Missouri 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 [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION**  
**Division 265—[Division of] Motor Carrier and Railroad Safety**  
**Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.130 Grade Crossing Construction and Maintenance.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, amending the purpose statement, deleting the old Publisher's Note, and adding a new Publisher's Note, and amending subsections (1)(A), (1)(C), and (1)(D).

**PURPOSE:** This amendment moves the rule from Title 4 to Title 7, updates the references to the *Manual on Uniform Traffic Control Devices* and to the *American Railway Engineering and Maintenance of Way Association's* guidelines that are incorporated into this rule and eliminates restrictive wording.

**PURPOSE:** This rule implements the provisions of section 389.610, RSMo, [as enacted in Senate Bill No. 676, General Assembly, Second Regular Session, 1988,] which authorizes the division to make reasonable rules pertaining to the construction and maintenance of all public grade crossings.

**[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. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.]

**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) Every crossing shall be constructed of materials that will provide a ride quality compatible with that of adjacent roadway surfaces (except that crossings of unconsolidated or asphalt material shall have installed headers of equal height to the top of rails installed on both sides of both rails).

(A) The crossing on paved roads shall be the same width as the approaching roadway including drivable shoulders plus two feet (2') on each side. On gravel roads, the crossing shall be the same width as the traveled way, which [shall be deemed to be] is the width of the crossing as it existed on April 27, 1989 but not less than sixteen feet (16').

(C) Width of roadway at a highway-railway grade crossing 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 highway-railway 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 (2009 edition)*, which is incorporated 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](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 authorities.

(D) Part [I (subsections 1.4—1.11)] 8 of the American Railway Engineering and Maintenance of Way Association's *Guidelines for the Design, Construction or Reconstruction of Highway-Railway At-Grade Crossings [are adopted] (2013 edition)*, is incorporated by reference [as] and made a part of this rule as published by the **American Railway Engineering and Maintenance of Way Association, 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 recommended practices for the construction and reconstruction of **highway-railway grade crossings**, if practicable[, but with the following changes:].

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

**AUTHORITY:** section 622.027, RSMo [1986] 2016. Original rule filed Jan. 5, 1989, effective April 27, 1989. Amended: Filed May 2, 1991, effective Dec. 9, 1991. Moved and amended: Filed March 9, 2018.

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

in the aggregate.

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

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

**Title [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad Safety  
Chapter 8—Railroads [and Street Railroads]**

**PROPOSED AMENDMENT**

**[4]7 CSR 265-8.140 First-Aid Kits.** The Missouri Highways and Transportation Commission is moving the rule to Title 7 and amending the purpose statement.

**PURPOSE:** This amendment moves the rule from Title 4 to Title 7 and removes a reference to Senate Bill No. 676 in the purpose statement because parts of SB 676 are no longer in effect.

**PURPOSE:** This rule implements the provisions of section 389.920, RSMo, [enacted in Senate Bill No. 676, General Assembly, Second Regular Session, 1988,] which authorizes the division to prescribe requirements for first-aid kits to be provided and maintained on certain railroad equipment by owners and operators of railroads in this state.

**AUTHORITY:** sections 389.920 and 622.027, RSMo [1986] 2016. Original rule filed Jan. 5, 1989, effective April 27, 1989. Moved and amended: Filed March 9, 2018.

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

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

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

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation Commission  
Chapter 21—Transportation Corporations**

**PROPOSED AMENDMENT**

**7 CSR 10-21.010 Procedures for Authorizing Transportation Corporations to Enforce Collection of Tolls.** The Missouri Highways



and Transportation Commission is amending sections (2) and (6) and subsections (1)(A), (1)(O), (2)(F), (6)(A), and (6)(B); deleting sections (3) through (5) and subsections (1)(B), (1)(F), (1)(G), (1)(I), and (1)(M) through (1)(N); and renumbering as necessary.

*PURPOSE: This proposed amendment eliminates redundant provisions existing in state law and clarifies the application process for transportation corporations to enforce tolls.*

(1) Definitions.

(A) "Act" means the Missouri Transportation Corporation Act, sections 238.300 to 238.367, RSMo [Cum. Supp. 1997, as amended].

[(B)] "Authorized emergency vehicles" means vehicles of fire departments, police departments, the department and the state highway patrol; ambulances, emergency vehicles of public service companies, and other vehicles approved and authorized by the corporation when performing emergency business.]

[(C)](B) "Commission" means the Missouri Highways and Transportation Commission.

[(D)](C) "Corporation" or "transportation corporation" means any transportation corporation organized under the Act.

[(E)](D) "Department" means the Department of Transportation of the state of Missouri.

[(F)] "Motor driven cycles" means every motorcycle or motor scooter with less than one hundred fifty (150)-cubic centimeter piston displacement, including motorized pedal cycles.

(G) "Pay" means paying a toll by cash, by permitting a charge against a valid account with the authority or by another means of payment approved by the corporation at the time.]

[(H)](E) "Person" means any individual, firm, corporation, cooperative, association, trust, partnership, joint venture, or other legally recognized entity.

[(I)] "Photo monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection facility which automatically produces one (1) or more photographs, one (1) or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of toll collection regulations.]

[(J)](F) "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit, and any similar or related improvement or infrastructure.

[(K)](G) "Toll" or "tolls" means charges prescribed by the corporation for the use of its property.

[(L)](H) "Toll collection regulations" means those rules and regulations of a corporation providing for and requiring the payment of tolls for the use of bridges under its jurisdiction or those rules and regulations of a corporation making it unlawful to refuse to pay or to evade or to attempt to evade the payment of all or part of any toll for the use of bridges under the jurisdiction of the corporation.

[(M)] "Toll collector" means a person authorized by the corporation to collect tolls for use of the project.

(N) "Vehicle" or "motor vehicle" means every device in, upon or by which a person or property is or may be transported or drawn upon a highway except devices used exclusively upon stationary rails or tracks.]

[(O)](I) "Violation" or "toll evasion" means one (1) or more act(s) [prohibited] **not authorized** by the Act and/or any rules or regulations promulgated [thereto] **as a result of the Act** relating to the payment or failure to pay tolls.

(2) Application. Transportation corporations seeking authority to

enforce payment of tolls shall file with the commission an application [which shall set forth] with the following information:

(F) A copy of the transportation corporation's proposed toll collection regulations [which shall] **that compl[y]ies** with the provisions of the Act.

[(3)] Transportation corporation's toll collection regulations shall include, but not be limited to, the following:

(A) Payment of Tolls. All persons driving vehicles upon the project, except as provided in subsection (3)(B) below, are required to pay the prescribed toll. Tolls may be paid for in the following manner:

1. By currency or change presented to a toll collector, or by correct change deposited in an automatic coin machine; or

2. By a valid and current billing account, charge plate, commuter pass, or electronic recording or identification device issued by the corporation and presented to the toll collector;

(B) Tolls shall not be required of corporation officers and employees while on corporation business, department vehicles, state highway patrol vehicles, or of public police, public fire or public ambulance vehicles when on emergency business or duty necessitating the use of the project, and when the vehicle is readily identifiable as such;

(C) Any person who shall fail to pay the prescribed toll shall be deemed guilty of an infraction and is subject to fines and punishment as provided in sections 238.365–238.367, RSMo of the Act; and

(D) Any person who shall use or attempt to use any currency or coins other than legal tender of the United States of America, counterfeit, expired, or unauthorized credit cards of any type, counterfeit tickets, coupons or tokens or any electronic device or equipment not authorized by the corporation in lieu of or to avoid payment of a toll shall be deemed guilty of an infraction and shall be subject to a fine for each such offense, as provided in sections 238.365–238.367, RSMo of the Act.

(4) Compliance with Orders or Directions of State Highway Patrol Officer or Patrolman and Corporation Employees. No person shall willfully fail or refuse to comply with any lawful order or direction of any Missouri State Highway Patrol officer or patrolman, toll collector, or other corporation employee or agent at the scene of an emergency, or willfully fail or refuse to comply with an order or direction from such person to comply with this chapter at any other time or place while using the project, or while on corporation right-of-way, whether or not traffic related.

(5) Procedure to Issue Citations. The following procedures must be taken for the collection of tolls and the issuance of traffic citations under this rule:

(A) Any toll collector witnessing a violation of the toll collection regulations is authorized to report such violation to a law enforcement official or agency. The report may be in one (1) of the following forms:

1. A telephone call from a toll collector to a law enforcement agency indicating a violation, and a reasonable description of the vehicle violating the toll enforcement regulations including, but not limited to, the license plate of the vehicle, the make, model and color of the vehicle; or

2. A certificate, or written report sworn to or affirmed by a toll collector, agent of the corporation, Missouri state highway patrolman or sheriff's department deputy which charged that the violation occurred, or facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo

monitoring system or a photo from a photo monitoring system, shall be prima facie evidence of the facts contained therein, subject to foundation evidence to establish the authenticity of such photographs, microphotographs, videotape or other recorded images produced by a photo monitoring system, and shall be admissible in any proceeding charging a violation of toll collection regulations, provided that any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection and admission into evidence in any proceeding to adjudicate the liability for such violations.

(B) After a report has been given to a Missouri law enforcement agency, such agency is authorized to issue a traffic citation for failure to pay the required toll.

(C) The law enforcement agency issuing the traffic citation is responsible for prosecution of such citation.

(D) The provisions of this section supplement the enforcement of the Act by law enforcement officers, and this section does not prohibit a law enforcement officer from issuing a citation for a violation of the Act or any violation of traffic regulations in accordance with normal traffic enforcement procedures.]

[[6]](3) Commission Review and Decision [to Grant Authority] Process. Upon receipt of a completed application, the commission [shall] reviews the application at its next scheduled meeting and makes a decision to either approve or disapprove it. The applicant shall be provided an opportunity at the commission meeting to describe its proposal to the commission and can make any modifications and revisions at the commission's meeting that the commission deems advisable. [The commission shall approve or disapprove the application at the meeting.]

(A) If the application is approved, the transportation corporation [shall be deemed] is authorized to enforce collection of tolls at its project as described in its proposed toll collection regulations.

(B) If the application is disapproved, the reasons for said disapproval shall be provided to the transportation corporation in writing within thirty (30) days of said meeting and the transportation corporation [shall have ninety (90) days in which to] is authorized to resubmit an application that addresses the deficiencies. After receiving information from the transportation corporation addressing the deficiencies, the commission [shall] approves or deny/ies the application at its next scheduled meeting. The transportation corporation may be provided an opportunity to describe its proposal and any supplemental information it supplied to the commission at the commission's meeting.

[[7]](4) Appeal. A transportation corporation aggrieved by any decision of the commission may appeal the commission's decisions in the manner prescribed by Missouri's Administrative Procedures and Review Act.

**AUTHORITY:** sections 238.347, [RSMo 1994 and] 238.362, 238.365, and 238.367, RSMo [Supp. 1997] 2016. Emergency rule filed Jan. 13, 1998, effective March 5, 1998, expired Aug. 31, 1998. Original rule filed Jan. 13, 1998, effective July 30, 1998. Amended: Filed March 9, 2018.

**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 rulemaking with the Missouri Department of Transportation, Pamela J. Harlan,

Secretary to the Commission, 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 60—[Traffic and] Highway Safety and Traffic  
Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED AMENDMENT**

**7 CSR 60-2.010 Definitions.** The Missouri Highways and Transportation Commission is amending section (1).

**PURPOSE:** This proposed amendment defines the terms used in the breath alcohol ignition interlock device certification and operational requirements.

(1) Definitions.

(A) The following words and terms as used in [these requirements shall] 7 CSR 60-2.010 through 7 CSR 60-2.060 have the following meaning:

1. Alcohol retest setpoint—The breath alcohol concentration at which the ignition interlock device is set for the rolling retests;

2. Alcohol setpoint—The breath alcohol concentration at which the ignition interlock device [is set to lock the ignition. The alcohol setpoint is the nominal lock point at which the ignition interlock device is set at the time of calibration] prevents the vehicle from starting;

3. Alveolar air—Deep lung air or alveolar breath, which is the last portion of a prolonged, uninterrupted exhalation;

4. Authorized service provider (ASP)—[A person, company, or authorized franchise who is certified by the state of Missouri to provide breath alcohol ignition interlock devices under sections 577.600–577.614, RSMo] The entity designated by the manufacturer to provide services to include, but not be limited to, installation, monitoring, maintenance, and removal of the breath alcohol ignition interlock device;

5. Bogus breath sample—Any [gas] sample other than an unaltered, undiluted, and unfiltered alveolar air sample from a driver;

6. Breath alcohol concentration (BrAC)—The [number of grams of alcohol] amount of alcohol in a given amount of breath, expressed in weight per volume (% weight/volume) based on grams of alcohol per two hundred ten (210) liters of breath;

7. Breath alcohol ignition interlock device (BAIID)—[A [mechanical unit that is installed in a vehicle which requires the taking of a BAC test prior to the starting of the vehicle and at periodic intervals after the engine has been started. If the unit detects a BAC test result below the alcohol setpoint, the unit will allow the vehicle's ignition switch to start the engine and will provide a warning message. If the unit detects a BAC test result at or above the alcohol setpoint, the vehicle will be prohibited from starting] breath testing device, including all parts necessary for operation, e.g. handset and camera, installed in a vehicle that prevents it from operating if breath test results show a BrAC that meets or exceeds the alcohol setpoint. The device also requires the driver to continue to pass repeated breath tests while the vehicle is running to ensure that the driver remains below the alcohol setpoint. However, the interlock device will not interfere with the normal operation of the vehicle while it is in use;

8. Breath [sample]—Expired human breath containing primarily alveolar air;

9. Calibration—The process which ensures an accurate alcohol concentration reading on a device;

10. Circumvention—An unauthorized, intentional, or overt act or attempt to start, drive, or operate a vehicle equipped with a breath alcohol ignition interlock device without the driver of the vehicle providing a pure breath sample **and/or blocking, moving, or disabling the camera, if required;**

11. *[Committee—The persons delegated to conduct informal reviews of suspension or revocation of a device by the Missouri Highways and Transportation] Commission—The Missouri Highways and Transportation Commission created by article IV, section 29, Constitution of Missouri;*

12. Department—The Missouri Department of Transportation created by article IV, section 29, Constitution of Missouri;

*[12.]13.* Designated monitoring period—The period of time indicated by the Department of Revenue for required monitoring of the driver's ignition interlock use by the *[authorized service provider] manufacturer;*

*[13.]14.* Device—Breath alcohol ignition interlock device *[[BAIID]];*

15. Division—The Highway Safety and Traffic Division under the department that is delegated the authority to administer the provisions of 7 CSR 60-2.010 through 7 CSR 60-2.060;

*[14.]16.* Download—The transfer of information from the interlock device's memory onto disk or other electronic or digital transfer protocol;

*[15.]17.* Emergency service—Unforeseen circumstances in the use and/or operation of a breath alcohol ignition interlock device, not covered by training or otherwise documented, which requires immediate action;

*[16.]18.* Filtered breath sample—A breath sample which has been filtered through a substance in an attempt to remove alcohol from the sample;

*[17.]19.* Global positioning system (GPS)—A feature of the device that will log the location (longitude and latitude), date, and time of each breath sample including any refusal, any circumvention attempt, and any attempt to tamper with the ignition interlock device;

*[18. Independent laboratory—A laboratory which properly equipped and staffed to conduct laboratory tests on ignition interlock devices;]*

*[19.]20.* Initial breath test—A breath test required to start a vehicle to ensure that the driver's BrAC is below the alcohol setpoint;

*[20.]21.* Installation—Mechanical placement and electrical connection of a breath alcohol ignition interlock device in a vehicle by installers;

*[21. Installer—A dealer, distributor, supplier, individual, or service center who provides device calibration, installation, and other related activities as required by the authorized service provider;]*

22. ISO—International Organization for Standardization;

*[22.]23.* Lockout—*[The ability] A condition of the device [to] which prevents a vehicle's engine from starting unless it is serviced or recalibrated;*

24. Manufacturer—A person or company responsible for the design, construction, and/or production of a BAIID;

25. Mobile Service—A portable authorized service provider, whether contained within a vehicle or temporarily erected on location, which includes all personnel and equipment necessary to conduct ignition interlock device related business and services;

*[23. NHTSA—Federal agency known as the National Highway Traffic Safety Administration;]*

*[24.]26.* Operator—Any person who operates a vehicle that has a court-ordered or Department of Revenue required breath alcohol ignition interlock device installed;

27. Override lockout—Method of overriding a lockout condition by providing a breath sample;

*[25.]28.* Permanent lockout—A *[feature of a device in which a vehicle will not start until the device is reset by a device installer] condition in which the device will not accept a*

*breath test until serviced by an ASP;*

*[26.]29.* Photo ID technology—A feature of the device that incorporates *[technology that will photograph] photo identification or digital images* of the person who is providing the breath test;

*[27. Refusal—The failure of a driver to provide a breath sample and complete the breath test when prompted by the ignition interlock device;]*

*[28.]30.* Pure breath sample—Expired human breath containing primarily alveolar air and having a breath alcohol concentration below the alcohol setpoint of twenty-five thousandths (.025);

31. Real-Time Reporting—The near real-time transmission of ignition interlock data between the manufacturer's server and the driver's ignition interlock while the device is in use;

*[29.]32. [Reinstallation—Replacing a breath alcohol ignition interlock device in a vehicle by an installer after it has been removed for service] Refusal—The failure of a driver to provide a breath sample and complete the breath test when prompted by the device;*

33. Relative Within Second Degree of Consanguinity or Affinity—A spouse or domestic partner, parent, step parent, child, step child, grandparent, step grandparent, grandchild, step grandchild, brother, step brother, sister, step sister, mother-in-law, father-in-law, grandparent-in-law, grandchild-in-law, brother-in-law, or sister-in-law;

*[30.]34.* Retest—Two (2) additional chances to provide a breath sample below the alcohol setpoint when the first sample failed; or three (3) chances to provide a breath alcohol sample below the alcohol setpoint on the *[rolling] running* retest;

*[31. Revocation—A revocation is a removal of a device from the approved list and requires reapplication under 7 CSR 60-2.020. After revocation, an authorized service provider must wait at least one (1) year or longer, if determined by Traffic and Highway Safety Division or the committee, before reapplication;]*

*[32.]35. [Rolling] Running* retest—A subsequent breath test that must be conducted within five (5) minutes after starting the vehicle and randomly during each subsequent thirty- (30-) minute time period thereafter while the vehicle is in operation;

*[33.]36.* Service lockout—A *[feature] condition* of the breath alcohol ignition interlock device *[which will not allow a breath test and will not allow the vehicle to start until the device is serviced and recalibrated as required] that occurs when the operator fails to have the device serviced during a certain period of time and results in a permanent lockout condition;*

*[34. Suspension—The period after a finding by the Missouri Department of Transportation, Traffic and Highway Safety Division, or the committee designated by the Missouri Highways and Transportation Commission to conduct informal review of a device, that is to be or has been removed from the list of approved devices. A suspension is temporary and may not require the manufacturer to go through the approval procedure although the Traffic and Highway Safety and Traffic Division or the committee may impose requirements before the suspension is removed;]*

*[35.]37.* Tampering—An overt, purposeful attempt to physically alter or disable an ignition interlock device, or disconnect it from its power source, or remove, alter, or deface physical anti-tampering measures, so a driver can start the vehicle without taking and passing an initial breath test;

38. Technician—A person trained by the authorized service provider to possess the skills necessary to install, service, calibrate, and/or remove ignition interlock devices;

*[36.]39.* Temporary lockout—A *[feature of the device] condition* in which the device will not allow the vehicle to start for fifteen (15) minutes after three (3) failed attempts to blow a pure breath sample; and

*[37.]40.* Violations reset—A feature of a device in which a service reminder is activated due to one (1) of the following reasons:

- A. Two (2) fifteen- (15-) minute temporary lockouts within a thirty- (30-) day period;
- B. Any three (3) refusals to provide a retest sample within a thirty- (30-) day period;
- C. Any three (3) breath samples, after startup, at or above the alcohol setpoint within a thirty- (30-) day period; or
- D. Any attempts to circumvent or tamper with a device.

**AUTHORITY:** sections 226.130, 302.060, 302.304, 302.309, [and] 302.525, [RSMo Supp. 2013, sections] and 577.041, [577.600–577.614, RSMo 2000 and] RSMo [Supp. 2013] 2016, and sections [226.130,] 302.440–302.462, RSMo [2000] 2016 and RSMo Supp. 2017. This rule originally filed as II CSR 60-2.010. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 9, 2018.

**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 Transportation, Pamela J. Harlan, Secretary to the Commission, 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 60—Traffic and Highway Safety Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED RESCISSION**

**7 CSR 60-2.020 Approval Procedure.** This rule outlined the necessary steps for manufacturers to get their interlock devices approved and certified in the state of Missouri.

**PURPOSE:** This rule is being rescinded and readopted to make it more concise and to bring it in line with current practices at both the federal and state levels, and eliminate any unnecessary restrictive wording.

**AUTHORITY:** sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2013, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. 2013, and section 226.130, RSMo 2000. This rule originally filed as II CSR 60-2.020. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed March 9, 2018.

**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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED RULE**

**7 CSR 60-2.020 Approval Procedure**

**PURPOSE:** This rule is being proposed to make it more concise and to bring it in line with current practices at both the federal and state levels. This rule outlines the necessary steps for manufacturers to get their interlock devices approved and certified in the state of Missouri.

**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) Submit the following information.

(A) Submit a letter on the manufacturer's letterhead requesting approval of the breath alcohol ignition interlock device. If the manufacturer's letterhead is not used, then provide the name and business address of the company. The letter should be signed by an authorized representative of the company. In the letter—

1. Identify the name and model number of the device;
2. Provide the applicant's toll-free customer service/question/complaint hot-line number; and
3. Certify that the device—
  - A. Is programmed according to the standards and specifications found in 7 CSR 60-2.030 and capable of meeting the requirements found in 7 CSR 60-2.040 and 7 CSR 60-2.050;
  - B. Does not impede the safe operation of the vehicle;
  - C. Minimizes opportunities to circumvent the device;
  - D. Prevents an operator from starting a vehicle when the operator has a breath alcohol concentration which meets or exceeds the alcohol set point; and
  - E. Is not the subject of any action to disallow and has never been disallowed for use in another state. If the applicant cannot certify as directed in this subparagraph, then identify the state(s) where the device has been disallowed or an action is pending.

(B) Submit a complete and certified copy of laboratory testing results from an independent laboratory that is ISO 17025 certified and properly equipped and staffed to conduct testing on breath alcohol ignition interlock devices, which indicates that the device meets or exceeds the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 78 FR 26849-26867 as published in the *Federal Register* on May 8, 2013 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective March 8, 2014, and 80 FR 16720-16723 as published in the *Federal Register* on March 30, 2015 and effective March 30, 2015, which are hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication.

(C) Include credentials of the laboratory that conducted the testing.

(D) Submit policies and/or procedures for device calibration.

(E) Submit a quality control plan that includes, but is not limited to:

1. A listing of the manufacturer's management staff by full name and title, including management at the state, installation site, and service center levels;
2. Training materials for technicians on the installation and calibration of the device;
3. Training materials for installation sites and service centers on how to explain or train drivers on the use of the device;
4. Training materials on the use of the device given to drivers;
5. Policies, procedures, and/or guidance concerning the supervision of installation sites, service centers, and technicians in the state;
6. Policies, procedures, and/or guidance that explain how the manufacturer will ensure that technicians do not have two (2) or more alcohol related enforcement contacts as defined in section 302.525, RSMo; or, a manslaughter, involuntary manslaughter, or any type of crime or conduct involving moral turpitude that would compromise the program;
7. Policies, procedures, and/or guidance concerning disciplinary action for authorized service providers and technicians that fail to meet requirements set forth in 7 CSR 60-2.030 through 7 CSR 60-2.050 or any policies of the applicant; and,
8. A copy of the service and/or lease agreement given to drivers.

(F) Submit these materials to the Missouri Department of Transportation, Highway Safety and Traffic Division, PO Box 270, Jefferson City, MO 65102. The approval process will not continue until all information is received and is complete to the satisfaction of the division.

(2) Testing and Evaluation.

(A) Submit three (3) devices for compliance testing by the division or its designee. One (1) device will be installed in a vehicle at applicant's expense and tested for a period of thirty (30) days. The applicant will install the device with all anti-circumvention features activated in a vehicle provided by the state, or its designee, and programmed according to the standards and specifications found in 7 CSR 60-2.030 and capable of meeting the requirements found in 7 CSR 60-2.040 and 7 CSR 60-2.050.

(B) Submit a power source and mechanical device capable of causing the submitted device to function as in a vehicle for demonstration purposes in a laboratory setting and include all attachments reflecting the normal operating function (i.e., horn, siren, grounding, tachometer, or other vehicle "in operation" signal, etc.).

(C) Submit true and correct copies of the information retained in the memory of the ignition interlock device as well as all reported events and forms and/or service records capable of generation by the device during testing.

(3) Certification or Denial. Within thirty (30) days following completion of compliance testing and testing of reporting requirements, the division will issue a letter of certification or certification denial. No device will be deemed approved unless applicant has received written notification of certification from the division.

*AUTHORITY:* sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016. This rule originally filed as 11 CSR 60-2.020. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed March 9, 2018.

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

aggregate.

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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 60—Traffic and Highway Safety Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED RESCISSION**

**7 CSR 60-2.030 Standards and Specifications.** This rule outlined the minimum standards and specifications for ignition interlock device approval and certification in the state of Missouri.

*PURPOSE:* This rule is being rescinded and readopted to make it more concise and to bring it in line with current practices at both the federal and state levels, and eliminate any unnecessary restrictive wording.

*AUTHORITY:* sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2013, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. 2013, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.030. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed March 9, 2018.

*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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED RULE**

**7 CSR 60-2.030 Standards and Specifications**

*PURPOSE:* This rule clarifies the standards and specifications required for an ignition interlock device to be certified for use in Missouri.

*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) Device standards and specifications. To be certified, a breath alcohol ignition interlock device must—

(A) General.

1. Meet or exceed the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 78 FR 26849-26867 as published in the *Federal Register* on May 8, 2013 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective March 8, 2014, and 80 FR 16720-16723 as published in the *Federal Register* on March 30, 2015 and effective March 30, 2015, which are hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication;

2. Effective on and after January 1, 2019, be manufactured or assembled by an entity which possesses an ISO 9001 certification.

3. Have electro-chemical fuel cell sensor technology or other advanced technology approved by the department.

4. Not be affected by humidity, dust, electromagnetic interference, smoke, exhaust fumes, food substance, or normal automobile vibration when used in accordance with device instructions.

5. Audibly or visually indicate when a 1.5 liter breath sample has been collected. The division, at its discretion, may permit the adjustment of the breath volume requirement to as low as 1.2 liter, when provided documentation from a licensed physician verifying an applicable medical condition. The physician's documentation will be submitted in a format approved by the division. Upon review, the division will notify the operator in writing of approval or denial of a lowered breath volume.

6. Permit a vehicle to be restarted without requiring an additional breath test for three (3) minutes after the ignition has been turned off or the vehicle has stalled, except when the operator has failed to take a random test or has provided a breath sample which meets or exceeds the alcohol set point.

7. Have an anti-circumvention feature activated to deter bogus breath samples.

8. Display on a label the message: "WARNING! ANY PERSON TAMPERING, CIRCUMVENTING OR OTHERWISE MIS- USING THIS DEVICE IS GUILTY OF A CLASS A MISDE- MEANOR";

(B) Information to operator.

1. Alert the operator of its readiness for a breath sample.

2. A visual pass/fail indicator of the Breath Alcohol Concentration (BrAC), or a combination audio response and visual pass/fail indicator.

3. Alert the operator of scheduled service at least seven (7) days prior to a scheduled service date.

4. Provide a warning to obtain service within seven (7) days following a missed scheduled service date, violations reset, and any act or attempt to tamper or circumvent a device.

5. The device will permanently lockout if service is not obtained within the seven (7) day warning period;

(C) Alcohol set point to start vehicle.

1. Have an alcohol set point below twenty-five thousandths (.025) for initial breath test to start the vehicle.

2. Permit a maximum of three (3) attempts to blow a breath sample below the alcohol set point within a ten- (10-) minute period.

3. Cause a fifteen- (15-) minute temporary lockout when three (3) failed startup attempts occur within a ten- (10-) minute period.

4. Present a violations reset message when two (2) fifteen- (15-) minute temporary lockouts occur within a thirty- (30-) day period;

(D) Alcohol retest set point and running retest.

1. Provide a running retest feature.

2. Have an alcohol retest set point of twenty-five thousandths (.025).

3. Request a running retest within five (5) minutes after the start of the vehicle and randomly during each subsequent thirty- (30-) minute time period thereafter as long as the vehicle is running.

4. Activate the vehicle's horn, or other installed alarm, until the operator shuts off the engine when a device calculates a breath sample at or above the alcohol retest set point of twenty-five thousandths (.025) or when a device records a failure to provide a running retest sample within five (5) minutes.

A. Any aftermarket alarm or siren installed in a vehicle by the Authorized Service Provider (ASP) will be installed inside the passenger compartment of the vehicle.

5. Present a violations reset message when three (3) running retest breath samples at or above the alcohol retest set point occur within a thirty- (30-) day period or when three (3) running retest refusals are recorded within a thirty- (30-) day period;

(E) Violations reset message.

1. Instruct the operator to obtain device service within seven (7) days following receipt of the message.

2. Cause the vehicle to enter a permanent lockout condition when a device is not serviced within seven (7) days;

(F) Device calibration.

1. Utilize calibration devices that are listed on the "Highway Safety Programs; Conforming Products List of Calibrating Units for Breath Alcohol Testers" established by the United States Department of Transportation, National Highway Traffic Safety Administration, 77 FR 64588-64590 as published in the *Federal Register* on October 22, 2012 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective October 22, 2012, which are hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication.

2. Calibrate devices at least every thirty (30) days, +/- seven (7) days, or during each monitoring service.

3. Be calibrated for accuracy by using a wet bath or dry gas alcohol standard with a reference value between 0.02 and 0.050 g/dL BrAC. The solution or gas should have a certificate of analysis that is traceable to the National Institute of Standards and Technology (NIST).

4. The device calibration must be within +/- 0.005 BrAC of the calibration standard reference value.

5. House and use wet bath simulators in environmentally stable, temperature controlled settings. Utilize wet bath simulators containing mercury-in-glass thermometers or digital thermometers and read thirty-four (34) degrees Celsius, +/- 0.2 degrees Celsius. Tubing length connecting the simulator to the interlock device will not exceed six (6) inches in length.

6. Store dry gas alcohol standard tanks in an environment where the temperature range remains between fifty and one hundred and four (50-104) degrees Fahrenheit and secured in a manner as to prevent harm to the public. The reference value will be adjusted for changes in elevation;

(G) Data storage and retention.

1. Have a sufficient internal memory to allow continuous recording and storage of all data for a minimum of thirty-seven (37) days.

2. Store data in a manner so the data will not be lost or affected by unintended data corruption, low vehicle battery voltage, loss of power supply, or disengagement or disconnection of the device.

3. Store data in a manner so that it can be printed in a report format that can be reasonably understood without reference to other information or documents.

4. Capture the date and time of: any use or attempted use of a

vehicle, any act or attempt to tamper or circumvent the device, device malfunctions, running retest refusals, when a violation reset message was presented, and any device servicing.

5. Capture the date, time, and breath alcohol concentration, in grams per two hundred ten (210) liters of air, of each breath sample provided to the device.

6. Provide photo identification or digital images and global positioning data when the features are enabled as required by the court supervising authority, Department of Revenue, or Missouri statute;

(H) Photo identification or digital images when the features are enabled as required by the court supervising authority, Department of Revenue, or Missouri statute.

1. Not impede the field of vision of the driver for safe and legal operation of the vehicle.

2. Include a reference photo or digital image of the operator at installation that is included as part of their electronic record.

3. Provide a wide angle view of sufficient quality so the person providing a breath sample and his/her position in the vehicle can be clearly identified.

4. Provide a photo or digital image of sufficient quality and resolution so that the operator can be clearly identified in all lighting conditions including, but not limited to, extreme brightness, darkness, and low light conditions.

5. Provide a photo or digital image for each successful completion of the initial breath test, successful completion of any running retest breath test, unsuccessful delivery of the initial breath test, unsuccessful delivery of any running retest breath test, and any refusal to take the breath test.

6. Indicate the date, time, and BrAC reading when the photo or digital image was taken; and

(I) Real-Time Reporting.

1. Effective on and after January 1, 2019, incorporate real-time reporting capabilities on all new installations of devices that require a camera by statute or court order.

2. Effective on and after August 1, 2019, incorporate real-time reporting capabilities on all currently installed devices that require a camera by statute or court order except when the operator is within three (3) months of removal of the device unless they have received a violations reset during that time period.

3. Provide near real-time data transmission between the operator's device and the manufacturer's server while the device is in use.

4. Make available for viewing, when a violation occurs, all data, including photos or digital imaging and global positioning system coordinates, if required, on the manufacturer's website within ten (10) minutes from when the data was recorded on the device or as soon as cellular transmission will permit. This includes any last event data recorded after power off or as power is restored (e.g., skipped running retest data).

5. Make available for viewing, during normal operation without violations, all data, including photos or digital imaging and global positioning system coordinates, if required, on the manufacturer's website within twelve (12) hours from when the data was recorded on the device or as soon as cellular transmission will permit. This includes any last event data recorded after power off or as power is restored (e.g., skipped running retest data).

6. Provide the date of the last upload on the operator's web account.

7. Utilize a cell phone company as well as a cellular contract that includes roaming services or a data transmission service. In cases where there is no cellular reception or data transmission, the device will store the data and send it as soon as reception is available or restored.

*Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the Code of State Regulations. Rescinded and Readopted: Filed March 9, 2018.*

*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 affect the costs to private entities, including small businesses. The annual fiscal impact to ignition interlock manufacturers is estimated to be eighteen thousand eight hundred ten dollars and sixty cents (\$18,810.60) to twenty-eight thousand three hundred forty dollars (\$28,340) to comply with the proposed rule. In the event a device cannot meet the proposed rule, the device will be decertified. The annual cost to the manufacturer if a device is decertified is estimated to be one hundred sixty-four thousand eight hundred seventy-four dollars (\$164,874) and forty-five thousand nine hundred dollars (\$45,900) for their authorized service providers.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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.*

*AUTHORITY: sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016. This rule originally filed as II CSR 60-2.030. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired*

**FISCAL NOTE  
PRIVATE COST**

- I. Department Title:** 7 – Department of Transportation  
**Division Title:** 60 – Traffic and Highway Safety Division  
**Chapter Title:** 2 – Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

<b>Rule Number and Title:</b>	7 CSR 60-2.030 – Standards and Specifications
<b>Type of Rulemaking:</b>	Proposed Rulemaking

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
3 (based on compliance)	Ignition Interlock Manufacturers	\$18,810.60 to \$28,340.00 (annual)
1 (based on decertification)	Ignition Interlock Manufacturers	\$164,874.00 (annual)
19 (based on decertification)	Authorized Service Providers	\$45,900.00 (annual)

**III. WORKSHEET**

There are six (6) breath alcohol ignition interlock manufacturers with eight (8) devices that are approved for use in Missouri. All ignition interlock devices are similar in that they provide a physical barrier to prevent the operation of a motor vehicle by drivers who have a breath alcohol concentration above a specified limit. A breath sample must be provided at vehicle start up and at variable times during vehicle operation. Manufacturers differ slightly in services provided to their clients (driving while intoxicated (**DWI**) offenders) and how the information is transmitted from their local installation sites and service centers. In addition, features such as photo identification vary in terms of quality and what is captured in the photo.

The proposed rule will require “real-time” reporting, which means near real-time transmission of ignition interlock data between a manufacturer’s system and the driver’s device while in use. The data shall be available for viewing by Missouri officials within twelve (12) hours of collection.

“Real-time” reporting will be required on all new installations of camera unit devices by January 1, 2019. Two (2) manufacturers already provide this service with their devices. In contrast, the remaining provide data only when the device is downloaded, which occurs every thirty (30) days. The delay in receipt of the data creates monitoring challenges for courts and probation and parole personnel. State and local officials can respond more quickly to complaints and violations with “real-time” data transmission and reporting.



In addition, the proposed rule sets standards for photo identification technology. Photo identification technology confirms the identity of the person providing the breath sample and the person operating the vehicle.

The rule will also require that the devices be manufactured or assembled by an entity which possesses an International Organization for Standardization (ISO) 9001 certification by January 1, 2019. The Missouri Department of Transportation (MoDOT) is adopting this as a best practice recommendation by the National Highway Traffic Safety Administration and the American Association of Motor Vehicle Administrators. MoDOT believes that one (1) manufacturer currently does not meet this requirement; however, it is unknown whether the requirement can be met by January 1, 2019.

MoDOT met with the six (6) ignition interlock manufacturers with certified devices in Missouri and three (3) manufacturers provided information on the fiscal impact caused by the “real-time” reporting requirement. There is wide variation between the fiscal impacts provided because the manufacturers made different assumptions to calculate their total costs. MoDOT can only speculate as to the future loss or growth of the manufacturers’ client base and to what extent, if any, manufacturers will “pass on” compliance costs to their clients through increased user fees. Accordingly, to present the estimated costs below, MoDOT utilized data provided by the Department of Revenue and the per unit-compliance-cost provided by three (3) of the six (6) manufacturers.

Manufacturer	Total number of devices installed as of 2/6/2018	Number of devices currently installed with camera as of 2/6/2018	Cost per device to meet specifications (provided by manufacturer)	Total Annual Cost
Manufacturer A	153	52	\$545.00	\$28,340.00
Manufacturer B	579	56	\$460.00	\$25,760.00
Manufacturer C	899	428	\$43.95	\$18,810.60

The above estimated fiscal impact is for compliance of the proposed rulemaking; however a manufacturer may not meet the proposed rule requirements, which would result in decertification. A chart estimating the costs incurred for decertification in calendar year 2019 is below for both the manufacturer and their authorized service providers.

Manufacturer	Total number of devices installed as of 2/6/2018	Monthly charge for device	Removal Fee	Total Annual Cost
Manufacturer	101 (standard) 52 (camera/gps)	\$79.00 \$99.00	\$50.00	\$164,874.00

Authorized Service Provider	Total number of devices installed as of 2/6/2018	Monthly fee for service	Install fee & Removal fee	Total Annual Cost
Service Providers	153	\$15.00	\$120.00	\$45,900.00

**Total Estimated Costs for Calendar Year '19 and all Subsequent Years: \$18,810.60 to \$28,340.00 for compliance with the proposed rulemaking; for \$164,874.00 if a manufacturer's device is decertified; and \$45,900.00 for authorized service providers.**

#### IV. ASSUMPTIONS

1. Data utilized is based on current number of devices installed and pricing provided by the ignition interlock manufacturers.
2. It is difficult to determine an annual cost since the term of ignition interlock use is based on the DWI offender's driving record and can range from 90 days to 10 years. The cost of decertification is based on the current number of devices the manufacturer has installed assuming the client/offender has the device installed for a one year period.
3. Research used to support information about the ignition interlock detection methods and program requirements: *Best Practices for Alcohol Interlock Programs*, Traffic Injury Research Foundation, April 2001; *Evaluation of State Ignition Interlock Programs: Interlock Use Analyses From 28 States, 2006-2011*, National Highway Traffic Safety Administration, May 2015; and *Ignition Interlock Best Practices*, American Association of Motor Vehicle Program Administrators, August 2015.
4. Only reasonably foreseeable costs have been used.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 60—Traffic and Highway Safety Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED RESCISSION**

**7 CSR 60-2.040 Responsibilities of Authorized Service Providers.**  
This rule outlined the responsibilities of breath alcohol ignition interlock device authorized service providers.

*PURPOSE: This rule is being rescinded and readopted to make it more concise and to bring it in line with current practices at both the federal and state levels, and eliminate any unnecessary restrictive wording.*

*AUTHORITY: sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2013, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. 2013, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.040. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 9, 2018.*

*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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED RULE**

**7 CSR 60-2.040 Responsibilities of Manufacturers**

*PURPOSE: This rule clarifies the manufacturer's responsibilities in regard to ignition interlock devices certified for use in Missouri.*

*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) A manufacturer shall—

(A) Carry product liability insurance with minimum liability limits of one (1) million dollars per occurrence and three (3) million dollars aggregate total that includes coverage for defects in device design and materials as well as device manufacturing, calibration, installation, and removal;

(B) Indemnify and hold harmless the state of Missouri and its officers, employees, and agents from all claims, demands, actions, and costs whatsoever which may arise, directly or indirectly, out of any act or omission by the manufacturer or its authorized service providers relating to device installation, service, repair, use, or removal;

(C) Review all data downloaded from a device for any evidence, within the designated monitoring period, of violations reset, tampering, and/or circumvention as those terms are defined in 7 CSR 60-2.010;

(D) Provide testimony in any civil, criminal, or administrative proceeding or hearing on device manufacturing, function, testing protocol(s), and any report or information provided to the division, Department of Revenue, or court supervising authority;

(E) Retain all information obtained as a result of each calibration or inspection for a minimum of three (3) years from the date of device removal;

(F) Retain records of installation, calibration, downloads, service, removal, and their associated invoices for a minimum of three (3) years from the date of device removal;

(G) Provide, upon request and at no cost, informational materials on devices to the Division of Probation and Parole, the Circuit Courts, and the Department of Revenue for distribution to operators;

(H) Create a printed price list reflecting any and all fees related to ignition interlock services that are not covered in the lease agreement; and

(I) Document any evidence of tampering and circumvention and notify court supervising authority.

(2) A manufacturer shall provide to the division the following:

(A) Proof of insurance that also includes a statement from the insurance company that thirty (30) days notice will be given to the division prior to cancellation of any insurance required under this rule;

(B) Written notice of any modification or alteration in the components, design, or installation and operating instructions of any certified device;

(C) Satisfactory proof that any modifications or alterations do not adversely affect the device's ability to meet or exceed the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 78 FR 26849-26867 as published in the *Federal Register* on May 8, 2013 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective March 8, 2014, and 80 FR 16720-16723 as published in the *Federal Register* on March 30, 2015 and effective March 30, 2015, which are hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication;

(D) A quarterly status report for each certified device that is sent electronically and received by the division on or before the fifteenth of the month immediately following the end of the quarter, and that contains for that quarter the total number of—

1. Devices that were in operation, devices installed during the quarter, devices voluntarily installed during the quarter, devices removed during the quarter, devices that malfunctioned or were defective;

2. Breath tests conducted and breath tests resulting in a Breath Alcohol Concentration (BrAC) at or above the alcohol set point;

3. Attempts at device circumvention as that term is defined in 7 CSR 60-2.010;

4. Vehicle starts and miles driven between download and calibration appointments;

5. Number of devices that resulted in a service lockout during the quarter; and

6. The first quarter of each year shall be January 1 through March 31;

(E) Within one (1) business day, electronic notice of any change to the list of authorized service providers for the manufacturer to include any additions, deletions, or other changes. Include the company name, location, phone number, contact name for each provider, indicate if the provider is a mobile site or fixed site, and which services are provided at each location (e.g., installation, calibration, removal);

(F) Upon request and at no cost, provide the division or its designee, a copy of all operator files and records;

(G) Notice of and explanation when a device has not transmitted data as outlined in 7 CSR 60-2.030 (1)(I) real-time reporting. Electronic notice will be made once the operator has been contacted or device calibration has occurred, whichever occurs first;

(H) Upon request and at no cost, provide the division or its designee, three (3) devices for periodic compliance testing once a device is certified. One (1) device will be installed in a vehicle and tested for a period of thirty (30) days. The manufacturer will install the device with all anti-circumvention features activated in a vehicle provided by the division, or its designee, and programmed according to the standards and specifications found in 7 CSR 60-2.030 and capable of meeting the requirements found in 7 CSR 60-2.040 through 7 CSR 60-2.050;

(I) Written notification if a certified device is the subject of a proposed sanction, disapproval, suspension, revocation, or cancellation of a device by another state or jurisdiction and written notice of the final decision regarding the sanction, disapproval, suspension, revocation, or cancellation by another state or jurisdiction;

(3) A manufacturer shall provide electronic notice to the Missouri Department of Revenue, in a format as determined by the director of revenue, within one (1) working day of device installation, service lockout condition, device removal, and completion of the designated monitoring period.

(4) A manufacturer shall provide to the court ordered supervising authority by a method and in a format as determined by the court ordered supervising authority—

(A) Notice, before the end of the next business day, with the exception of federal holidays, of any instance of operator noncompliance such as any lockout condition, circumvention, violations reset, BrAC at or above the alcohol set point, missed scheduled service date, device removal, and other instances of operator noncompliance as determined by the referring court;

(B) Reports every thirty (30) days that contain a summary of violations, the number of starts, the number of miles driven since last calibration, and all instances of tampering, circumvention, violations reset, BrAC at or above the alcohol set point, missed scheduled service date, device removal, and other instances of operator noncompliance as determined by the referring court;

(C) Provide to the court ordered supervising authority, upon request, additional reports to include, but not be limited to, records of installation, calibrations, maintenance checks, and usage records.

(5) A manufacturer shall provide to the operator—

(A) Written instructions and hands-on training on how to use and maintain the device;

(B) Written instructions on what type of vehicle malfunctions or repairs may affect the device and what to do when vehicle repairs are necessary;

(C) A twenty-four (24) hour toll-free telephone number for technical information and tow and/or road service in the event of a device malfunction or failure.

1. A call will be answered by a device technician or returned by a device technician within thirty (30) minutes of the original call time.

2. Assistance related to the malfunction or failure of a device should be provided within two (2) hours of the original call time.

3. The device must be made functional or replaced within twen-

ty-four (24) hours from the original call time. In the event of a device malfunction or failure on a federal holiday, the device will be repaired or replaced on the following business day;

(D) Restoration of the vehicle to its original condition after removal of the device;

(E) Access to a separate, enclosed waiting area during device installation and removal; and

(F) Notification when the device has not transmitted data, as outlined in 7 CSR 60-2.030 (1)(I) real-time reporting, for a consecutive ten- (10-) day period.

*AUTHORITY: sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016. This rule originally filed as II CSR 60-2.040. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the Code of State Regulations. Rescinded and Readopted: Filed March 9, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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 60—Traffic and Highway Safety Division Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

### PROPOSED RESCISSION

**7 CSR 60-2.050 Breath Alcohol Ignition Interlock Device Security.** This rule outlined the security requirements of the authorized service providers.

*PURPOSE: This rule is being rescinded and readopted to make it more concise and to bring it in line with current practices at both the federal and state levels, and eliminate any unnecessary restrictive wording.*

*AUTHORITY: sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2013, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. 2013, and section 226.130, RSMo 2000. This rule originally filed as II CSR 60-2.050. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 9, 2018.*

*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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED RULE**

**7 CSR 60-2.050 Breath Alcohol Ignition Interlock Device Security**

*PURPOSE: This rule outlines security requirements of manufacturers and authorized service providers.*

(1) A manufacturer shall require and take steps to ensure that its authorized service providers—

(A) Carry garage keepers or general liability insurance coverage with minimum limits of three hundred thousand (\$300,000) dollars per occurrence and six hundred thousand (\$600,000) dollars in the aggregate to cover damage and loss to the operator's vehicle and personal property while in the authorized service providers care and/or custody;

(B) Meet all federal, state, and local government regulations for operating as a business in the state;

(C) Follow certification standards and specifications for service;

(D) Possess the appropriate skills, equipment, and facilities necessary to comply with all of the certification and operational requirements outlined in 7 CSR 60-2.030 through 7 CSR 60-2.050;

(E) Inspect all vehicles before and after device installation to determine that the mechanical and electrical parts of the vehicle affected by the device are acceptable for the installation and proper operation of the device;

(F) Take reasonable steps to prevent the operator or any other unauthorized person from obtaining access to installation materials and/or from observing the installation or removal of a device;

(G) Do not install or service any device, except for testing and promotional purposes, on a vehicle owned or operated by any of its employees or relatives of its employees within the second degree of consanguinity or affinity as that phrase is defined in 7 CSR 60-2.010;

(H) Provide written and hands-on training for the operator on how to properly use, operate, and maintain the device, including instructions against improper operation and precautions when others use the device;

(I) Do not install a device on a vehicle that cannot be driven from the service center under its own power;

(J) Place all connections between a device and the vehicle under the dash or in an inconspicuous area of the vehicle and cover all exposed electrical connections between a device and the vehicle with unique and easily identifiable seal, epoxy, resin, wire, sheathing, or tape;

(K) Document vehicle mileage as displayed on the vehicle odometer when a device is installed, calibrated, serviced, maintained, and/or repaired;

(L) Conduct physical inspections of all external wiring, insulation, connections, tamper seals, and sheathing when a device is serviced, maintained, and/or repaired;

(M) Check device for proper operation, tampering, and circumvention when a device is serviced, maintained, and/or repaired;

(N) Do not sell or use any type of remote code or reset feature that allows the operator to bypass a device without providing all required

breath tests. An override lockout may be provided under the following conditions:

1. The lockout override must be unique to the device;

2. All requirements outlined in 7 CSR 60-2.030 through 7 CSR 60-2.050 apply;

3. The lockout override will not be valid for more than twenty-four (24) hours upon which the device will enter a permanent lockout status; and

4. Each lockout override will be uniquely recorded in the data storage system;

(O) Document each use of an override lockout on the operator's data log;

(P) Do not assist or facilitate any tampering or circumvention of a device;

(Q) Do not ship a device or other equipment to anyone other than the manufacturer, authorized service provider, or state authority;

(R) Conduct installations, calibrations, downloads, servicing, and/or removal of a device for an operator residing out-of-state are in compliance with all requirements outlined in 7 CSR 60-2.010 through 7 CSR 60-2.060;

(S) Maintain records documenting all calibrations, downloads, and any other service performed on a device, including service of a violations reset; and

(T) Do not permit an unauthorized person to view or gain access to an operator's personal or medical information, or other secured materials including, but not limited to, tamper seals, installation instructions, computer discs, and any other material used to download device data or install, service, calibrate, monitor, or remove a device.

*AUTHORITY: sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016. This rule originally filed as 11 CSR 60-2.050. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the Code of State Regulations. Rescinded and Readopted: Filed March 9, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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 60—Traffic and Highway Safety Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED RESCISSION**

**7 CSR 60-2.060 Suspension, or Revocation of Approval of a Device.** This rule outlined the conditions for which ignition interlock device certification may be suspended or revoked.

*PURPOSE: This rule is being rescinded and readopted to make it more concise and to bring it in line with current practices at both the*

federal and state levels, and eliminate any unnecessary restrictive wording.

**AUTHORITY:** sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2013, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. 2013, and section 226.130, RSMo 2000. This rule originally filed as II CSR 60-2.060. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed March 9, 2018.

**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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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 60—Highway Safety and Traffic Division  
Chapter 2—Breath Alcohol Ignition Interlock Device  
Certification and Operational Requirements**

**PROPOSED RULE**

**7 CSR 60-2.060 Device Suspension and Decertification**

**PURPOSE:** This rule clarifies the conditions for which an ignition interlock device may be suspended or decertified.

**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) Suspension and Decertification. If a manufacturer does not comply with the requirements of 7 CSR 60-2.030 through 7 CSR 60-2.050, then the commission is authorized to suspend and/or decertify the manufacturer's device.

(2) Circumstances warranting suspension and/or decertification include, but are not limited to:

- (A) Voluntary request by the manufacturer;
- (B) Termination or cancellation of liability insurance;
- (C) Modification or alteration of the components, design, installation, and operation instructions in such a way that the device no longer meets or exceeds the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 78 FR 26849-26867 as published in the *Federal Register* on May 8, 2013 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective March 8, 2014, and 80 FR 16720-16723 as published in the *Federal Register* on March 30, 2015

and effective March 30, 2015, which are hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication;

(D) Defects in design, materials, or workmanship that appear to cause repeated device failures;

(E) Documented multiple device malfunctions and/or failures;

(F) Instances of device not meeting the standards and specifications of 7 CSR 60-2.030;

(G) Validated complaints from the operator(s) concerning proper device operation;

(H) Instances of the manufacturer not meeting reporting requirements or any other requirements found in 7 CSR 60-2.030 through 7 CSR 60-2.050; and

(I) Manufacturer or its agent provides false, inaccurate, or misleading information relating to device specifications or performance.

(3) Cost. In the event of suspension or decertification, the manufacturer will be responsible for all compliance costs associated with 7 CSR 60-2.010 through 7 CSR 60-2.060 including, but not limited to:

- (A) Contacting operator's regarding suspension or decertification;
- (B) Removal of decertified devices from the offender's vehicle;
- (C) Installation of a new device on the offender's vehicle;
- (D) Transfer of all operators' user records and other applicable documents to a location and in a format as directed by the division.

(4) Suspension. A suspension will last for at least ninety (90) days after the commission's final decision. During this period, the suspended device cannot be installed in a vehicle in Missouri as a new install or replacement for the same or different device. The division reserves the right to notify operators, if deemed necessary under the circumstances. If device malfunctions and/or failures were the basis for the suspension, then commission's decision may require certification testing before the suspension is lifted. A suspension will not exceed one (1) year.

(5) Decertification. A device may be decertified for reasons listed under section (2) or if corrective action on a suspended device has not been timely and satisfactorily completed. Within thirty (30) days of a final commission decision to decertify, a manufacturer will notify operators of the decertification and will transfer all operators' user records and other applicable documents to a location and in a format as directed by the division. The division reserves the right to notify operators, if deemed necessary under the circumstances. Within thirty (30) days of a final commission decision to decertify, a manufacturer will submit its written plan explaining the process and timeline for removing the decertified devices and installing a certified device selected by the operator. All decertified devices shall be removed and replacement devices installed within one hundred twenty (120) days of a final commission decision. If a device is decertified, then it is ineligible for certification for a period of one (1) year beginning on the date the last device is removed.

(6) Notice. Notice of a suspension or decertification will be sent by certified mail to the manufacturer's representative at the address on file with the division. The notice is deemed received upon receipt or five (5) business days after mailing, whichever occurs first.

(7) Effective Date. A suspension or decertification decision takes effect seven (7) days after notice is received unless the division, in its sole discretion, determines that the device should be suspended or decertified immediately due to a risk to public safety. In that instance, the suspension or decertification takes effect once notice is received or five (5) business days after mailing, whichever occurs first.

(8) Final Decision. The division's decision becomes the final decision of the commission, unless an informal review is requested. If an informal review is requested, then the review panel's decision

becomes the commission's final decision.

(9) Informal Review. Within seven (7) days following receipt of notice of a suspension or decertification, a manufacturer may submit a written request for an informal review of the division's decision. The review will be conducted by a three- (3-) person panel of department personnel, appointed by the department's Chief Engineer. A member of the review panel cannot be personnel actively involved in the division's decision. If an informal review is requested, then the manufacturer will have ten (10) business days in which to submit relevant facts, arguments in favor of its position and supporting documentation to the panel. Information may be submitted electronically or by U.S. mail. The panel will have ten (10) business days to review the submissions and make a decision. Pending completion of informal review process, the suspended or decertified device cannot be installed in a vehicle as a new install or as a replacement for the same or different device.

*AUTHORITY:* sections 226.130, 302.060, 302.304, 302.309, 302.440–302.462, 302.525, 577.041, 577.600, 577.605, and 577.612, RSMo 2016. This rule originally filed as II CSR 60-2.060. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the *Code of State Regulations*. Rescinded and Readopted: Filed March 9, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Transportation, Pamela J. Harlan, Secretary to the Commission, 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 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 1—Organization and Description**

**PROPOSED AMENDMENT**

**9 CSR 10-1.010 General Organization.** The department is amending the purpose and sections (1) and (4)–(7).

*PURPOSE:* This amendment updates the descriptions of the organization of the department and where the public may obtain information about the department as required by section 536.023, RSMo 2016.

*PURPOSE:* This rule describes the organization of the department and where the public may obtain information about the department as required by section 536.023, RSMo [1986].

(1) The Department of Mental Health (DMH) was established by the Omnibus Reorganization Act of 1974. Under Chapter 630, RSMo the department shall administer, maintain, and develop facilities and services for persons affected by mental disorders, developmental disabilities, and alcohol or drug abuse. The department further seeks to reduce the incidence and prevalence of disabling conditions; to systematically plan on a regional and statewide basis for the provision

of services; to certify or license, or both, certain residential facilities, day programs, and specialized services; to conduct research and program evaluation to improve services; and to develop staff and analyze mental health manpower needs.

(4) The department service delivery system is divided into the following [three (3)] two (2) divisions as described in other rules of this title: the Division of [Alcohol and Drug Abuse, the Division of Comprehensive Psychiatric Services] Behavioral Health and the Division of [Mental Retardation and] Developmental Disabilities.

[(A)] The Division of Alcohol and Drug Abuse plans and funds prevention, treatment and rehabilitation programs for persons who have alcohol or chemical dependencies. It provides community-based funding for prevention, outpatient, residential and detoxification services. The division also provides technical assistance to agencies and sets standards for treatment programs, qualified professionals and alcohol- and drug-related educational programs. The division also provides outpatient treatment services to compulsive gamblers and their families. The division's phone number is (573) 751-4942.]

[(B)](A) The Division of [Comprehensive Psychiatric Services] has three (3) primary roles in the delivery of public sector psychiatric services. As a direct provider of services, the division operates eleven (11) facilities that provide acute and long-term inpatient psychiatric care of adults and children, inpatient forensic services, and a specialized treatment center for civilly committed sex offenders. In its role as purchaser and regulator, the division contracts with private not-for-profit mental health agencies to provide a comprehensive range of community-based psychiatric services and supports for adults and children. For persons with mental illness who require housing assistance and supports, the division authorizes service delivery through contracts with privately operated residential providers across the state. Standards and outcomes for community-based and residential service delivery as well as financial performance requirements are codified in policies, regulation, rules, and contracts. These accountability requirements are monitored periodically by division and department staff conducting on-site reviews and analysis of financial and service delivery encounters and outcomes.] Behavioral Health provides comprehensive mental health and substance use disorder prevention, treatment, and recovery services. The division oversees state-operated facilities for people with serious mental illnesses and children with severe emotional disturbances. Community-based treatment is provided through contracted, certified agencies that serve children, youth, and adults. Recovery services support individuals in recovery from serious mental illness or substance use disorders. Prevention services are provided through a network of contracted, certified agencies that offer education and early intervention activities for children, youth, and families. Prevention Resource Centers are the primary source of technical assistance for local communities.

[(C)](B) The Division of [Mental Retardation and] Developmental Disabilities serves a population that has such developmental disabilities as [mental retardation,] cerebral palsy, head injury, autism, epilepsy, and [other related] certain learning disabilities. [Mental retardation must have occurred before age eighteen (18) while all other conditions] Such conditions must have been manifested before age twenty-two (22) with the expectation that they will [be lifelong] continue. To be eligible for services from the division, persons with these disabilities must have substantial functional limitations in two (2) or more of the following areas of major life activities: self-care, [communication] receptive and expressive language development and use, learning, [decision-making] self-direction, capacity for independent living or economic self-sufficiency, and mobility. This division's primary mission is to assist persons

with developmental disabilities through programs and services to enable those persons to live independently and productively. *[, given their individual needs and capabilities. The division achieves its mission through a statewide system of seventeen (17) state-operated facilities that provide or purchase specialized services. The eleven (11) regional centers form the framework for the system, backed by six (6) habilitation centers that provide residential care and habilitation services for people with the most severe disabilities. The regional centers, the primary points of entry into the system, provide assessment and case management services. The centers also provide oversight for and quality enhancement support for programs/services funded by the division.]*

(5) The department provides administrative and technical support for the entire department and its divisions through the following units.

(A) The *[Office] Division of Administration[, headed by the department's deputy director for administration,]* provides a range of administrative and financial services to help the department achieve effective results. The office's services can be divided into the following areas:

1. *[Fiscal management accounts for all funds, manages expenditures and produces fiscal summaries, analyses, and reports] Budget and Finance;*

2. *[Capitol improvements/general services provides guidance on construction, maintenance and repair for twenty-seven (27) state-owned facilities, and coordinates leases] Accounting;*

3. *[Contracts management secures more than four thousand five hundred (4,500) private agencies or individuals to provide services in the community] Purchasing and General Services; and*

4. *[Reimbursements collects payments from private insurance, Medicaid and Medicare, and private pay for department services;] Medicaid Reimbursements.*

*[5. Budget services develops and monitors the annual operating and lease budgets and oversees spending plans;*

*6. Revenue management maximizes all available revenue streams to effectively manage financial resources; and*

*7. Dietetic services coordinates services to dietitians in the state facilities and provides department-wide consultation of food management and nutrition.*

(B) *The Office of Quality Management is currently responsible for a myriad of department-wide and statewide functions in support of the department director's office, the three (3) direct client care divisions and the other support offices. Those functions serve to coordinate and implement quality improvement processes to enhance division services to clients through the following mechanisms:*

1. *Survey, licensure and certification of facilities and treatment programs, including technical assistance;*

2. *Technical assistance to and staff support of major federal and state initiatives;*

3. *Internal and external audit services, related to compliance, financial, and performance reviews;*

4. *Abuse and neglect investigations and associated technical assistance for local investigations;*

5. *Direction and coordination of continuous quality improvement (CQI) and outcomes evaluation processes, including annual customer satisfaction survey, web-based reporting of results and other departmental outcome/performance based data collection and reporting;*

6. *Appeals and hearings for administrative due process;*

7. *Coordination of the department's regulatory and records management processes;*

8. *Statewide coordination of the department's emergency management response; and*

9. *Medical/clinical quality assurance and health care policy consultation to the department's management and*

*facility operations.]*

*[(C)](B)* The Office of Human Resources is responsible for supplying administrative support for employment, labor relations, recruitment, compensation management, and affirmative action. *[The office maintains and analyzes the staff information system to assist in management decisions.]* The Office of Human Resources' phone number is (573) 751-4991.

*[(D)]* The Office of Information Systems is responsible for identifying and providing information technology and communication solutions for the department. *In this role it advises, procures, develops, implements, operates and coordinates computer and communications systems for the department and for the department's facilities. These systems include telephone and data services, clinical and financial information systems, and reporting and decision support functions.]*

*[(E)](C)* The Office of Public and Legislative Affairs disseminates information to the public concerning mental health programs and services. *[The office also provides support services, technical assistance and training to the department's divisions, offices and facilities.]* The office works with state and local officials, stakeholders, the public, and other state departments to advocate for the department's objectives by advancing legislative initiatives designed to develop sound public policies relating to mental health services. The Office of Public and Legislative Affairs' phone number is (573) 751-4423/1647.

*[(F)](D)* The Office of Consumer Affairs provides consumer and family views in policy making, aids in access to services, and ensures that client rights are protected. *Constituent Services* advocates for individuals (and their families) who receive services for developmental disabilities, mental illnesses, and substance use disorders, and responds to issues regarding consumer rights. The phone number of the Office of Consumer Affairs is (573) 751-8093, the number of the client rights monitor. *Constituent Services* is (573) 751-8088, *[with both accessed through the department at]* or toll-free at 1-800-364-9687.

(E) The Office of Deaf Services provides training, consultation, and technical assistance to DMH facilities and contracted providers delivering mental health services to eligible individuals who are deaf or hard of hearing. The office also oversees policy development, best practices, and program development informed by advisory input from DMH stakeholders. The phone number of the Office of Deaf Services is (573) 526-1857.

(6) In accordance with various authorizing statutes, the department *[shall]* promulgates rules by filing them with the secretary of state *[prescribing policies or standards which affect costs of service, quality assurance for providers and external business associates, contracts and funding for purchased services, and other relevant requirements associated with federal law]*. The department *[shall]* also adopts department-wide operating regulations concerning its internal management. Each facility *[shall]* adopt policies that are directly relevant only to its own operations. Rules are available at the department central office for public inspection and review, as well as online at the *[department's] Secretary of State's* website *[http://www.modmh.state.mo.us/homeinfo/deptregs.html]* at <https://www.sos.mo.gov/adrules/csr/current/9csr/9csr>.

(7) A records custodian, appointed by the department director, is responsible for the maintenance of the department's records. Procedures for the release of information on any meeting, record, or vote is available from the records custodian directly, located at the Department of Mental Health, 1706 East Elm Street, PO Box 687, Jefferson City, MO 65102. *[Requests may also be made online from the department's website http://www.modmh.state.mo.us/homeinfo/records/.]* The records custodian shall also provide information on charges for record copying, timelines for producing records, and assistance for persons



with disabilities, for example, large print or Braille materials.

*AUTHORITY: sections 536.023 and 630.050, RSMo [2000] 2016. Original rule filed April 8, 1976, effective July 12, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed March 9, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.*

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 25—Fiscal Management  
Chapter 5—Administration of Personal Spending Funds**

**PROPOSED RESCISSION**

**9 CSR 25-5.010 Guidelines for Planning Client Personal Spending Allowances.** This rule prescribed guidelines for planning client personal spending allowances for department clients in residential facilities operated or funded by the department.

*PURPOSE: This rule is being rescinded as unnecessary. The rule duplicates federal policies for representative payees, and describes practices that are obsolete and in conflict with federal rules for Home and Community-based Services.*

*AUTHORITY: section 630.050, RSMo 1986. Original rule filed Oct. 19, 1984, effective Feb. 11, 1985. Rescinded: Filed March 9, 2018.*

*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 by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.*

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 30—Certification Standards  
Chapter 3—[Alcohol and Drug Abuse] Substance Use Disorder Treatment Programs**

**PROPOSED AMENDMENT**

**9 CSR 30-3.300 Prevention Programs.** The department is amend-

ing the rule title and sections (1), (2), and (5)–(9).

*PURPOSE: This amendment changes the chapter title and replaces outdated terminology with state-of-the-art language for prevention and early intervention strategies to reduce the impact of substance use disorders in communities.*

(1) Program Description. A prevention program offers a planned, organized set of activities designed to reduce the risk of and incidence of illegal or age-inappropriate use [or abuse] of alcohol, tobacco, and other drugs.

(B) The target population may include individuals, groups, organizations, communities, and the general public. The target population may include individuals or groups considered to be at-risk or high-risk in their potential for substance use; however, prevention activities are not specifically or primarily directed to persons who need treatment for a substance [abuse] use disorder.

(C) A prevention program [shall] provides services that are comprehensive, research based, and culturally sensitive and relevant.

(D) A prevention program [should] serves all age groups and populations where the need is evident, including special populations.

(2) Use of Risk Reduction Strategies. A prevention program [shall] implements, strategies which reduce the risk of and the incidence of illegal or age-inappropriate use [or abuse] of alcohol, tobacco, and other drugs. The program shall implement the following risk reduction strategies in accordance with the type of prevention services and programming it offers:

(A) Increase awareness of the nature and extent of such substance use [or abuse] and their effects on individuals, families, and communities;

(C) Develop social and life skills which reduce the potential for such substance use [or abuse];

**(D) Identify and address risk and protective factors associated with substance use;**

[(D)](E) Provide and assist with constructive and healthy activities to offset the attraction of such substance use [or abuse] or to meet needs which otherwise may be fulfilled by these substances;

[(E)](F) Identify persons who may have become involved in the initial, inappropriate, or illegal use of alcohol, tobacco, and/or other drugs and then arrange support and other referrals, as needed;

[(F)](G) Assess community needs and assist in the development of community planning and action;

[(G)](H) Establish or change community attitudes, norms, and policies known to influence the incidence of such substance use [or abuse];

[(H)](I) Actively intervene with individuals and populations who have multiple risk factors for such substance use [or abuse]; and

[(I)](J) Organize, coordinate, train, and assist other community groups and organizations in their efforts to reduce such substance use [or abuse].

(4) Requirements for Certification. A prevention program shall comply with [those] rules and standards listed under 9 CSR 30-3.032 [Certification of Substance Abuse Programs].

(A) Requirements under 9 CSR 10-7.120 [Physical Plant and Safety shall be] are applicable based on the type of services provided by the prevention program and whether services are offered to individuals and groups at the program site.

(B) The following rules and standards [shall be] are waived for prevention programs, unless the department determines that a specific requirement is applicable due to the unique circumstances and service delivery methods of a program:

1. 9 CSR 10-7.010 [Treatment Principles and Outcomes];

2. 9 CSR 10-7.020 [Rights, Responsibilities and Grievances];

3. 9 CSR 10-7.030 [Service Delivery Process and Documentation];

4. 9 CSR 10-7.060 [Behavior Management];

5. 9 CSR 10-7.070 [Medications];

6. 9 CSR 10-7.080 [Dietary Services];

7. 9 CSR 30-3.100 [Service Delivery Process and Documentation (ADA)]; and

8. 9 CSR 30-3.110 [Service Definitions and Staff Qualifications (ADA)].

(5) Qualifications of Staff. Services shall be provided by a qualified prevention specialist who demonstrates substantial skill by being—

[1.](A) A graduate of an accredited college or university with a bachelor's degree in community development, education, public administration, public health, psychology, sociology, social work, or closely related field and have one (1) year or more of full-time equivalent professional experience in education, public health, mental health, human services, or a closely related area. Additional years of experience may be substituted on a year-for-year basis for the education requirement; or

[2.](B) [An alcohol and drug abuse prevention professional credentialed by an agent acceptable to the department.] A prevention professional that is credentialed by the Missouri Credentialing Board to provide prevention services.

(6) Documentation of Resources and Services. All prevention programs shall maintain—

(A) A current listing of resources within the geographic area in order to readily identify available substance [abuse] use disorder treatment and prevention resources, as well as other resources applicable to the target population;

(7) Primary Prevention Program. A Primary Prevention Program shall offer comprehensive services and activities to a specified target population(s) in its effort to reduce the risk of and incidence of illegal or age-inappropriate use or [abuse] misuse of alcohol, tobacco, and other drugs.

(A) A primary prevention program shall offer all of the following types of prevention services: information, education, alternatives, problem identification and referral, community-based process, and environmental services.

1. Unless otherwise indicated, the target population for information, education, alternatives, and problem identification and referral services shall include, but is not limited to, one (1) or more of the following: persons who are at risk for a substance [abuse] use disorder; families or friends, or both, of persons at risk for a substance [abuse problem] use disorder; school officials or employers of persons at risk for a substance [abuse problem] use disorder; caretakers and families of elderly or populations with other special needs.

2. Unless otherwise indicated, the target population for community-based process and environmental services shall include, but is not limited to, persons at risk for a substance [abuse] use disorder; community groups mobilizing to combat inappropriate substance [abuse,] use includ(e)ing civic and volunteer organizations; church; schools; business; healthcare facilities and retirement communities; state and municipal governments; and other related community organizations.

(B) Information services shall increase awareness of the nature, extent, and effects of such substance use [or abuse].

1. Information services are characterized by one- (1-)/-/ way communication from the presenter to the target population.

2. In addition to the target populations listed in subsection (7)(A), the target population information services may include the general public.

3. Examples of information service activities include: distributing written materials such as brochures, pamphlets, newsletters, resources directories, and other relevant materials; distributing audiovisual materials such as films, tapes, public service announcements, and other relevant materials; functioning as information resource center or clearinghouse; arranging speakers and presenta-

tions; and operating as a designated access point for computerized information networks.

(D) Alternatives shall provide healthy and constructive activities to offset the attraction of such substance use [or abuse] or to meet needs which otherwise may be fulfilled by these substances.

1. Alternative services engage the target population in recreational and other activities that exclude such substance use [or abuse].

2. Examples of alternative service activities include developing and supporting [alcohol- and drug-free dances and parties,] community service activities, teen institutes and other leadership training and activities for youth, adults, parents, school faculty, or others.

(E) Problem identification and referral services shall assist in arranging support, education, and other referrals, as needed, for persons who have become involved in the initial, inappropriate, or illegal use of alcohol, tobacco, and drugs.

1. This service does not include a professional or comprehensive assessment and determination of the need for substance [abuse] use disorder treatment.

2. Examples of specific problem identification and referral activities include training and consultation to student assistance programs, employee assistance programs, medication support programs for the elderly, and other programs and organizations that may intervene with persons in the target population.

(F) Community-based process shall involve the assessment of community needs and the promotion of community planning and action in order to enhance other prevention and treatment services and to reduce the incidence of such substance use [or abuse].

1. The target population shall include community [action teams, such as Community 2000 Teams] coalitions. A community [action team] coalition must have broad-based community representation and participation, such as civic organizations, neighborhood groups, churches, schools, law enforcement, healthcare and substance treatment facilities, businesses, and governmental organizations.

2. Examples of community-based process activities include assessing community needs and risk factors and recruiting, training, and consulting with community [action teams] coalitions.

(G) Environmental services shall positively effect community policies, attitudes, and norms known to influence the incidence of such substance use [or abuse].

1. Environmental services may address legal/regulatory initiatives, service/action initiatives, or both.

2. Examples of environmental services include maintaining current information regarding environmental strategies; training and consulting with community [action teams] coalitions in the development and implementation of such strategies; serving as a resource to school, businesses, and other community organizations in the development of policies; and providing information regarding alcohol and tobacco availability, advertising and pricing strategies.

(8) Targeted Prevention Program. A Targeted Prevention Program shall actively intervene with individuals and populations that have multiple risk factors for the illegal or age-inappropriate use or [abuse] misuse of alcohol, tobacco, and other drugs. The program shall reduce risk factors and reduce the likelihood of such substance use [or abuse] and include effective prevention strategies that are based on research findings.

(A) The target population shall include:

1. Persons at risk of developing a substance [abuse] use disorder, such as out-of-school youth, youth dropouts, or persons prone to violence; and

2. Individuals and groups that influence those persons at risk for a substance [abuse] use disorder, such as parents; teachers, families and caretakers of elderly, or populations with other special needs; and school based and community groups, including civic and volunteer organizations, churches and other related community organizations.

(9) **Statewide Prevention Resource Center.** A statewide prevention resource center shall organize, coordinate, train, assist, and recognize community, regional, and state resources in their efforts to reduce the illegal or age-inappropriate use or *[abuse]* misuse of alcohol, tobacco, and other drugs.

(A) The target population shall include community *[action teams, such as Community 2000 Teams;]* coalitions and other community organizations including primary prevention programs; and other community and state resources.

(B) Examples of specific activities include:

1. Conducting statewide and regional workshops and conferences;
2. Where applicable, distributing a state-wide newsletter that contains current information about prevention activities and issues;
3. Providing information and technical assistance regarding effective prevention strategies that are based on research findings;
4. Recognizing accomplishments by community *[action teams]* coalitions and sponsoring recognition events;
5. Coordinating prevention activities and resources development with other state level organizations and state agencies; and
6. Expanding and strengthening the network of community and state organizations involved in prevention activities.

**(10) All prevention programs shall participate in program evaluation activities as required by the department.**

*AUTHORITY: section 630.655, RSMo [2000] 2016. This rule was originally filed as 9 CSR 30-3.630. Original rule filed May 13, 1983, effective Sept. 13, 1983. For intervening history, please consult the Code of State Regulations. Amended: Filed March 9, 2018.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 75—Peace Officer Standards and Training Program  
Chapter 15—Continuing Education**

**PROPOSED AMENDMENT**

**11 CSR 75-15.010 Continuing Education Requirement.** The director is amending section (1) by eliminating the section of rule pertaining to a three- (3-) year reporting period. The director is amending section (2) by eliminating the ability to carry over continuing education credit from one reporting period to the next. The director is amending section (6) by eliminating the maximum number of credit hours that can be received by instructing a class. The director is eliminating section (7) as it pertains to a three- (3-) year reporting period, which ended on December 31, 2017. The director is renumbering section (8) to section (7), and eliminating the section of rule pertaining to a three- (3-) year reporting period. The director is renumbering section (9) to section (8). The director is eliminating section (10).

The director is renumbering section (11) to section (9) and eliminating the section of rule pertaining to a three- (3-) year reporting period. The director is renumbering section (12) to section (10). The director is renumbering section (13) to section (11). In addition, all regulatory restrictions in this section are eliminated.

*PURPOSE: This amendment eliminates any mention of a three- (3-) year Continuing Law Enforcement Education (CLEE) reporting period. The last three- (3-) year reporting period ended on December 31, 2017. This amendment eliminates the ability to carry over continuing education credit from one reporting period to the next. This amendment eliminates the requirement to complete training in the separate topic areas of officer well-being, including mental health and/or physical health awareness; fair and impartial policing practices including implicit bias recognition; handling persons with mental health or cognitive impairment issues; and tactical training, which must include one (1) or more of the following areas: de-escalation techniques, crisis management, critical thinking, or social intelligence. This amendment eliminates the need to restrict the number of continuing education credit hours that can be awarded to continuing education or basic training instructors. All regulatory restrictions have been removed.*

(1) Continuing law enforcement education (CLEE) *[shall]* **is to** be obtained and monitored on a fixed, annual cycle, with the first annual CLEE period beginning January 1, 2017, and ending December 31, 2017, and successive CLEE periods ending December 31 every year thereafter. *[For the three- (3-) year period commencing January 1, 2015, and ending December 31, 2017, every peace officer licensed prior to January 1, 2015, shall complete not less than forty-eight (48) hours of CLEE credit, not less than twenty-four (24) hours of which credit shall be completed in the period beginning January 1, 2017, and ending December 31, 2017.]*

(2) Every licensed peace officer *[shall]* **is to** obtain twenty four (24) hours of CLEE credit during each annual CLEE period. *[A maximum of eight (8) hours of CLEE credit may be carried over from one (1) annual CLEE period to the next CLEE period.]*

(3) A peace officer *[shall]* **is to** be exempt from the CLEE *[requirement]* training standard for the remainder of a CLEE period during which the officer receives a new license pursuant to 11 CSR 75-13.020, receives a license upgrade pursuant to 11 CSR 75-13.030, or successfully completes a Missouri basic training course in its entirety.

(5) Commencing for the reporting period beginning January 1, 2017, and ending December 31, 2017, and for reporting periods thereafter, during each CLEE period, every peace officer *[shall]* **is to** obtain at least eight (8) hours of CLEE credit from some combination of the following sources:

(6) Commencing for the reporting period beginning January 1, 2017, and ending December 31, 2017, and for successive reporting periods, no peace officer *[shall]* **can** receive—

(A) More than sixteen (16) hours of CLEE credit for in-service training; **or**

(B) More than eight (8) hours of CLEE credit for accredited college or university courses; **or**.

*[(C) More than twelve (12) hours of CLEE credit for serving as a CLEE or basic training instructor.]*

*[(7) The provisions of sections (5) and (6) notwithstanding, for the final three (3) year reporting period commencing January 1, 2015, and ending December 31, 2017, the following provisions shall apply:*

*(A) No peace officer shall receive more than twenty-four*

(24) hours of CLEE credit for in-service training;

(B) No peace officer shall receive more than eighteen (18) hours of CLEE credit for accredited college or university courses;

(C) No peace officer shall receive more than twenty four (24) hours of CLEE credit for serving as a CLEE or basic training instructor; and

(D) Each peace officer shall obtain at least twenty-four (24) hours of CLEE credit from some combination of the following sources:

1. Licensed CLEE providers;
2. Licensed basic training centers; and
3. Non-law enforcement agency sources approved to provide a specific CLEE course pursuant to 11 CSR 75-15.040.]

[(8)](7) During each CLEE period, every peace officer [shall] is to, pursuant to 11 CSR 75-15.020(1), obtain at least—

- (A) Two (2) credit hours of legal studies;
- (B) Two (2) credit hours of technical studies;
- (C) Two (2) credit hours of interpersonal perspectives, **which may include implicit bias and racial profiling**; and
- (D) Two (2) credit hours of firearms skill development training. [Except that during the three (3) year reporting period ending December 31, 2017, every peace officer shall obtain at least four (4) hours of each subject area listed in subsections (A)–(D) above.]

[(9)](8) Every peace officer with the authority to enforce motor vehicle or traffic laws [shall] is to obtain CLEE training regarding racial profiling.

[(10)] Commencing for the reporting period beginning January 1, 2017, and ending December 31, 2017, and for successive reporting periods. Every peace officer shall obtain annual CLEE training covering the following topics, which shall fit within one (1) of the four (4) curricula areas outlined in 11 CSR 75-15.020(1):

- (A) Two (2) credit hours of training on officer well-being, including mental health and/or physical health awareness;
- (B) Two (2) credit hours of training on fair and impartial policing practices including implicit bias recognition;
- (C) Two (2) credit hours of training on handling persons with mental health or cognitive impairment issues; and
- (D) Two (2) credit hours of training on tactical training, which must include one (1) or more of the following areas: de-escalation techniques, crisis management, critical thinking, or social intelligence. Except that, for the reporting period commencing January 1, 2017, and ending December 31, 2017, the CLEE training required in subsections (A), (B), (C), and (D) hereinabove, may be satisfied by qualifying training obtained by the peace officer in 2016 or 2017, but that such hours obtained in 2016 shall not be used to satisfy the overall twenty-four (24) hours of CLEE training required to be obtained in 2017, by the provisions of section (1) hereinabove.]

[(11)](9) At the conclusion of each CLEE period, the director [shall] is to determine the compliance of each peace officer pursuant to this rule. Each peace officer [shall be] is responsible for reporting and demonstrating compliance to the director. [For the three (3) year reporting period ending December 31, 2017—]

[(A) Within thirty (30) days after the end of each CLEE period, the director shall send to the chief executive officer of each agency that commissions any peace officer a listing of its commissioned officers and a form for certifying which officers are in compliance with this rule, which officers are not in compliance, and which officers are exempt pursuant

to section (3) of this rule. If the chief executive officer certifies a peace officer pursuant to this rule, this shall satisfy the officer's obligation to report CLEE compliance to the director;

(B) Every peace officer whose chief executive officer does not certify CLEE compliance to the director and every peace officer who does not hold a commission at the conclusion of the CLEE period shall report CLEE compliance to the director on a report of continuing law enforcement education form.]

[(12)](10) A peace officer may apply to the director for a modification or waiver of the CLEE requirement for any CLEE period in which the officer takes official state or federal military leave of absence or in which the director determines that the officer was unable to comply with the CLEE [requirement] **training standard** due to a documented medical condition. Any determination made by the director pursuant to this rule [shall be] is subject to review only pursuant to section 536.150, RSMo.

[(13)](11) Any peace officer who fails to comply with this rule [shall be] is subject to discipline pursuant to section 590.080.1(6), RSMo.

*AUTHORITY: sections 590.030.5(1), 590.050, and 590.190, RSMo 2016. Original rule filed May 1, 2002, effective Oct. 30, 2002. For intervening history, please consult the Code of State Regulations. Amended: Filed March 9, 2018.*

*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 Jeremy Spratt, Missouri Department of Public Safety Peace Officer Standards and Training (POST) Program Manager, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 75—Peace Officer Standards and Training  
Program  
Chapter 15—Continuing Education**

**PROPOSED AMENDMENT**

**11 CSR 75-15.020 Minimum Standards for Continuing Education Training.** The director is amending subsection (1)(C) by adding the training example of “officer well-being.” The director is amending subsection (1)(D) by adding the training example of “de-escalation techniques.” The director is amending section (2) by removing the need to specifically designate CLEE training related to “officer well-being, including mental health and/or physical health awareness; fair and impartial policing practices, including implicit bias recognition; handling persons with mental health or cognitive impairment issues; and tactical training, which must include one (1) or more of the following areas: de-escalation techniques, crisis management, critical thinking, or social intelligence.” The director is amending subsection (3)(B) by changing the amount of CLEE credit awarded to basic and continuing education instructors. The director is eliminating subsection (3)(C) and renumbering subsection (3)(D) to (3)(C). The director is amending subsection (3)(E) by eliminating the requirement to note on the training certificate if the course covered the topic areas of

“officer well-being, including mental health and/or physical health awareness; fair and impartial policing practices, including implicit bias recognition; handling persons with mental health or cognitive impairment issues; and tactical training, which must include one (1) or more of the following areas: de-escalation techniques, crisis management, critical thinking, or social intelligence.” The director is amending subsection (4)(E). The director is amending section (5) by changing the word “shall” to “is to.” The director is amending section (6) by changing the word “shall” to “is to.” In addition, all regulatory restrictions in this section are eliminated.

*PURPOSE: This amendment adds “officer well-being” to the description of Interpersonal Perspectives and “de-escalation techniques” to the description of Skill Development. This amendment changes the amount of CLEE credit awarded for basic and CLEE instruction to one (1) hour of CLEE credit for each hour of instruction. This amendment eliminates the need to list the training topics of “officer well-being, including mental health and/or physical health awareness; fair and impartial policing practices, including implicit bias recognition; handling persons with mental health or cognitive impairment issues; and tactical training, which must include one (1) or more of the following areas: de-escalation techniques, crisis management, critical thinking, or social intelligence” to the certificate of training completion. This amendment also eliminates all regulatory restrictions.*

(1) All Continuing Law Enforcement Education (CLEE) training *[shall]* **is to** relate to one (1) of the following curricula areas:

(C) Interpersonal Perspectives – Described as training that focuses on interpersonal or communication skills, such as implicit bias, racial profiling, cultural diversity, ethics, fair and impartial policing practices, conflict management, victim sensitivity, critical thinking, social intelligence, mental health awareness, **officer well-being**, and stress management; or

(D) Skill development – Described as training that focuses on activities that develop physical skill proficiency and demonstrative tasks such as **de-escalation techniques**, defensive tactics, firearm training, driver training, first aid, and CPR training.

(2) All CLEE training *[shall]* **is to** be designated according to curricula area. CLEE training relating to racial profiling[,], and firearms[,], *officer well-being, including mental health and/or physical health awareness; fair and impartial policing practices, including implicit bias recognition; handling persons with mental health or cognitive impairment issues; and tactical training, which must include one (1) or more of the following areas: de-escalation techniques, crisis management, critical thinking, or social intelligence shall]* **is to** also be designated as such, in addition to being designated by curricula area.

(3) CLEE credit *[shall]* **is to** be calculated at the following rates:

(B) *[Two (2) hours] One (1) hour* of CLEE credit for each hour of CLEE or basic training instruction delivered *[for the first time in an annual reporting period and one (1) hour of CLEE credit for each subsequent time a CLEE or basic training course is taught]* to an in-person audience *[in the same reporting period]; and*

*[(C) Two (2) hours of CLEE credit for each hour of computer-based CLEE instruction to be awarded only once when a session is first entered into the CLEE Tracking System with no credit awarded for subsequent viewings; and]*

*[(D)](C) Two (2) hours of CLEE credit for each semester hour of credit earned at an accredited college or university and related to law enforcement or applicable to law enforcement administration.*

(4) Upon successful completion of the requirements of any CLEE course, the provider of the training *[shall]* **is to** report to the director the successful completion of the CLEE course by the trainee in a

method to be determined by the director and *[shall]* **is to** present each trainee a certificate bearing—

(E) The number of racial profiling[,], or firearms[,], *officer well-being, including mental health and/or physical health awareness; fair and impartial policing practices, including implicit bias recognition; handling persons with mental health or cognitive impairment issues; and tactical training, which must include one (1) or more of the following areas: de-escalation techniques, crisis management, critical thinking, or social intelligence]* CLEE credit hours earned, if any;

(5) A CLEE provider *[shall]* **is to** retain, for a period of six (6) years after each CLEE training course, the following records:

(6) Every law enforcement agency that provides in-service CLEE training *[shall]* **is to** present each officer leaving the agency with a complete record of all in-service CLEE training obtained by the officer during the officer’s tenure with the agency.

(7) A source approved to provide a specific CLEE course pursuant to 11 CSR 75-15.040 *[shall]* **is to** file with the director a complete attendance list within two (2) weeks following the completion of the course in a method to be determined by the director.

(8) CLEE providers *[shall]* **are to** deliver all CLEE training in a safe and effective manner.

*AUTHORITY: sections 590.030.5(1), 590.050, and 590.190, RSMo 2016. Original rule filed May 1, 2002, effective Oct. 30, 2002. For intervening history, please consult the Code of State Regulations. Amended: Filed March 9, 2018.*

*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 Jeremy Spratt, Missouri Department of Public Safety Peace Officer Standards and Training (POST) Program Manager, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 75—Peace Officer Standards and Training  
Program  
Chapter 15—Continuing Education**

**PROPOSED RULE**

**11 CSR 75-15.080 Failure to Obtain Continuing Education Training**

*PURPOSE: This rule identifies what occurs if a peace officer fails to obtain the necessary continuing law enforcement education training.*

(1) Pursuant to 11 CSR 75-15.010(11), it is the responsibility of every licensed peace officer to report and demonstrate to the director his or her compliance with the continuing law enforcement education (CLEE) training standard.

(2) Beginning with the CLEE reporting period that ends on December 31, 2018, and every reporting period thereafter, licensed peace officers who fail to report and demonstrate they have successfully obtained the necessary CLEE training hours by the end of their respective reporting period, and who have not applied for a waiver or extension pursuant to 11 CSR 75-15.010(12), will automatically be given until March fifteenth of the following year to obtain any CLEE training hours that the officer may be deficient and demonstrate compliance to the director.

(3) If by March fifteenth of the following year the licensed peace officer has not reported and demonstrated to the director his or her compliance with the CLEE training standard, the officer's peace officer license may, at the discretion of the director, become inactive. Once a peace officer's license becomes inactive, it may remain inactive until the licensee can report and demonstrate to the director compliance with the CLEE training standard.

(4) Persons with an inactive peace officer license are ineligible to hold a commission as peace officer as defined in section 590.010, RSMo.

*AUTHORITY:* sections 590.030.5(1), 590.050, and 590.190, RSMo 2016. Original rule filed March 9, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with Jeremy Spratt, Missouri Department of Public Safety Peace Officer Standards and Training (POST) Program Manager, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 61—Licensing Rules for Family Day Care Homes**

**PROPOSED RESCISSION**

**13 CSR 40-61.075 Hearings and Judicial Review.** This rule established provisions for a hearing and judicial review of a decision made by the Child Care Licensing Unit.

*PURPOSE:* This rule is being rescinded as the Department of Health and Senior Services now handles this function.

*AUTHORITY:* section 210.221, RSMo 1987. This rule was previously filed as 13 CSR 40-61.050. Original rule filed March 29, 1991, effective Oct. 31, 1991. Rescinded: Filed March 2, 2018.

*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 Department of Social Services, Legal Services Division-Rulemaking,

PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 62—Licensing Rules for Group Day Care Homes  
and Child Day Care Centers**

**PROPOSED RESCISSION**

**13 CSR 40-62.062 Child Care Licensing Review Board.** This rule established composition and duties of the Child Care Licensing Review Board.

*PURPOSE:* This rule is being rescinded as the Department of Health and Senior Services now handles this function.

*AUTHORITY:* section 210.221, RSMo Supp. 1987. This rule was previously filed as 13 CSR 40-62.041. Emergency rescission filed Aug. 18, 1993, effective Aug. 28, 1993, expired Dec. 25, 1993. Original rule filed March 29, 1991, effective Oct. 31, 1991. Rescinded: Filed March 2, 2018.

*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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 62—Licensing Rules for Group Day Care Homes  
and Child Day Care Centers**

**PROPOSED RESCISSION**

**13 CSR 40-62.072 Hearings and Judicial Review.** This rule established provisions for a hearing and judicial review of a decision made by the Child Care Licensing Unit.

*PURPOSE:* This rule is being rescinded as the Department of Health and Senior Services now handles this function.

*AUTHORITY:* section 210.221, RSMo Supp. 1987. This rule was previously filed as 13 CSR 40-62.051. Emergency rescission filed Aug. 18, 1993, effective Aug. 28, 1993, expired Dec. 25, 1993. Original rule filed March 29, 1991, effective Oct. 31, 1991. Rescinded: Filed March 2, 2018.

*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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 15—Hospital Program**

**PROPOSED RESCISSION**

**13 CSR 70-15.150 Enhancement Pools.** This rule created enhancement pools to increase reimbursement to government-owned hospitals and all hospitals, in an amount not to exceed the Medicare upper limit payment for the Medicaid program.

*PURPOSE: This rule is being rescinded because the MO HealthNet Division (MHD) no longer makes payments under this regulation.*

*AUTHORITY: sections 208.153 and 208.201, RSMo 2000. Emergency rule filed April 9, 2001, effective April 19, 2001, expired Oct. 15, 2001. Original rule filed April 9, 2001, effective Sept. 30, 2001. Rescinded: Filed March 2, 2018.*

*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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 20—Pharmacy Program**

**PROPOSED RESCISSION**

**13 CSR 70-20.010 Participating Drug Vendors.** This rule limited the dispensers of drugs to licensed pharmacists, except in those localities where there were no pharmacies and where it was necessary for a licensed medical practitioner to dispense drugs in order to provide adequate pharmacy service in that community.

*PURPOSE: This rule is being rescinded because there is no longer a dispensing physician agreement.*

*AUTHORITY: section 207.020, RSMo 1986. This rule was previously filed as 13 CSR 40-81.011. Original rule filed Nov. 13, 1978, effective Feb. 11, 1979. Rescinded: Filed March 2, 2018.*

*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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to rules.comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 20—Pharmacy Program**

**PROPOSED RESCISSION**

**13 CSR 70-20.033 Medicaid Program Coverage of Investigational Drugs Used in the Treatment of Acquired Immunodeficiency Syndrome (AIDS).** This rule established guidelines regarding Medicaid coverage and reimbursement for the drug product Serostim.

*PURPOSE: This rule is being rescinded because Serostim is no longer an investigational drug. As initially established, this rule implemented guidelines for Medicaid coverage and reimbursement of the investigational drug Serostim. This regulation is no longer needed because the reimbursement and coverage of this drug now falls under 13 CSR 70-20.030.*

*AUTHORITY: sections 208.152, 208.153 and 208.201, RSMo 1994. Emergency rule filed Dec. 15, 1995, effective Jan. 1, 1996, expired June 28, 1996. Original rule filed Dec. 15, 1995, effective July 30, 1996. Rescinded: Filed March 2, 2018.*

*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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 20—Pharmacy Program**

**PROPOSED RESCISSION**

**13 CSR 70-20.071 Multiple Source Drugs for Which There Exists a Federal Upper Limit on Reimbursement.** This rule established upper limits on reimbursement for selected multiple source drugs, in response to the implementation of federal guidelines.

*PURPOSE: This rule is being rescinded because the federal upper limit is addressed in 13 CSR 70-20.070.*

*AUTHORITY: sections 208.153 and 208.201, RSMo Supp. 2013. Emergency rule filed Oct. 19, 1987, effective Oct. 29, 1987, expired Feb. 25, 1988. Emergency amendment filed Oct. 29, 1987, effective Nov. 8, 1987, expired March 6, 1988. Original rule filed Dec. 1, 1987, effective Feb. 11, 1988. For intervening history, please consult the Code of State Regulations. Rescinded: Filed March 2, 2018.*

*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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 25—Physician Program**

**PROPOSED RESCISSION**

**13 CSR 70-25.120 MO HealthNet (Medicaid) Payment for Certain Services Furnished by Certain Physicians in Calendar Years 2013 and 2014.** This rule set forth the criteria to be used by the MO HealthNet Division in establishing certain payment rate increases for certain primary care services provided in calendar years 2013 and 2014. Federal law required certain payment rates by state Medicaid agencies of the Medicare Part B rates in effect in calendar years (CY) 2013 and 2014 or, if higher, the rate that would be applicable using the CY 2009 Medicare conversion factor (CF), for certain primary care services furnished by a physician with the specialty designation of family medicine, general internal medicine, or pediatric medicine. This rule was to encourage physicians to participate in MO HealthNet (Medicaid), and thereby promote access to primary care services for current and new MO HealthNet participants.

*PURPOSE:* This rule is being rescinded as the MO HealthNet Division (MHD) no longer makes payments under this regulation.

*AUTHORITY:* sections 208.152, 208.153, and 208.201, RSMo Supp. 2013. Original rule filed Oct. 10, 2013, effective April 30, 2014. Rescinded: Filed March 2, 2018.

*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 Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2085—Board of Cosmetology and Barber  
Examiners  
Chapter 14—Violations and Hearings**

**PROPOSED RESCISSION**

**20 CSR 2085-14.010 Violations.** This rule explained relief provisions which could be exercised by the board against violators.

*PURPOSE:* This rule is being rescinded as it is unnecessary since it duplicates the provisions of Chapter 621, RSMo.

*AUTHORITY:* sections 328.160 and 329.025.1, RSMo Supp. 2006 and 328.150, 329.140, 329.250 and 329.255, RSMo 2000. Original rule filed Aug. 1, 2007, effective Feb. 29, 2008. Rescinded: Filed March 5, 2018.

*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 Board of Cosmetology and Barber Examiners, PO Box 1062, Jefferson City, MO 65102, by facsimile at (573) 751-8176, or via email at [cosbar@pr.mo.gov](mailto:cosbar@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 2085—Board of Cosmetology and Barber  
Examiners  
Chapter 14—Violations and Hearings**

**PROPOSED RESCISSION**

**20 CSR 2085-14.020 Hearings and Review.** This rule established hearing and review provisions.

*PURPOSE:* This rule is being rescinded as it is unnecessary since it duplicates the provisions of Chapter 621, RSMo.

*AUTHORITY:* sections 329.025.7 and 621.045.1, RSMo Supp. 2006. Original rule filed Aug. 1, 2007, effective Feb. 29, 2008. Rescinded: Filed March 5, 2018.

*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 Board of Cosmetology and Barber Examiners, PO Box 1062, Jefferson City, MO 65102, by facsimile at (573) 751-8176, or via email at [cosbar@pr.mo.gov](mailto:cosbar@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 2245—Real Estate Appraisers  
Chapter 5—Fees**

**PROPOSED AMENDMENT**

**20 CSR 2245-5.020 Application, Certificate and License Fees.** The commission is amending section (2).



*PURPOSE: This amendment sets forth the required fees assessed to appraisal management companies per Policy Statement 8 issued by the Appraisal Subcommittee in accordance with the Dodd-Frank Act.*

(2) The following fees shall be paid by appraisal management companies (AMC) for original application, issuance, and renewal of license:

(B) License Renewal Fee	\$350
<b>1. Federal AMC covered transactions</b>	
(per appraiser)	\$ 25*
(F) Appraisal Subcommittee Fee (per appraiser)	\$ 25**

\* For those AMCs that meet the federal definition of AMC as defined in 12 U.S.C. 3350(11): an additional twenty-five dollars (\$25) multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction during the previous two (2) years shall be remitted.

\*\*Appraisal management companies that are owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813 and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation are to remit a check made payable to the Appraisal Subcommittee by June 30th of even numbered years. The amount to be remitted shall be determined by multiplying the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction by twenty-five dollars (\$25) for each of the previous two (2) years.

*AUTHORITY: sections 339.509, 339.513, and 339.525.4, RSMo [Supp. 2012] 2016. This rule originally filed as 4 CSR 245-5.020. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the Code of State Regulations. Emergency amendment filed March 5, 2018, effective March 15, 2018, expires Sept. 10, 2018. Amended: Filed March 5, 2018.*

*PUBLIC COST: This proposed amendment will increase revenue for the Appraisal Subcommittee of the Federal Financial Institutions Examination Council by seven hundred fifty thousand dollars (\$750,000) biennially for the life of the rule. The Real Estate Appraisers Commission will not be affected by this proposed amendment.*

*PRIVATE COST: This proposed amendment will cost private entities approximately seven hundred fifty thousand dollars (\$750,000) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Real Estate Appraisers Commission, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via email at reacom@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## PUBLIC FISCAL NOTE

**I. RULE NUMBER**

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration**  
**Division 2245 - Missouri Real Estate Appraisers Commission**  
**Chapter 5 - Fees**  
**Proposed Rule - 20 CSR 2245-5.020 Application, Certificate and License Fees**

**II. SUMMARY OF FISCAL IMPACT****II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Increase in Revenue
Appraisal Subcommittee of the Federal Financial Institutions Examination Council	\$750,000

**III. WORKSHEET**

See Private Entity Fiscal Note

**IV. ASSUMPTION**

1. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight

**PRIVATE FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration**  
**Division 2245 - Missouri Real Estate Appraisers Commission**  
**Chapter 5 - Fees**  
**Proposed Rule - 20 CSR 2245-5.020 Application, Certificate and License Fees**

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
2,499	Federal AMC Covered Transactions Estimate: 2499 appraisers each on 6 AMC panels (2499 appraisers x 6 AMCs = \$14,994 x \$25 national registry fee = 374,850 x 2 years	\$ 749,700
1	Appraisal Subcommittee Fee Estimate: 1 appraiser on 6 AMC panels (1 appraiser x 6 AMCs = 6 x \$25 Appraisal Subcommittee Fee = \$150 x 2 years	\$ 300
<b>Estimated Biennial Cost of Compliance for the Life of the Rule</b>		<b>\$ 750,000</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The above figures are based on the number of licensed appraisers divided by the number of licensed appraisal management company panels.
2. The Federal AMC covered transactions and Appraisal Subcommittee fees are pass through fees determined by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC). The commission does not establish or retain the fees.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2255—Missouri Board for Respiratory Care  
Chapter 1—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2255-1.010 Board Information—General Organization.** The board is deleting sections (2) and (3) and renumbering as necessary.

*PURPOSE: This amendment deletes language regarding the board which is duplicative of statutory language.*

*[(2) The board shall meet at least twice a year and as frequently as the chairperson, board or Division of Professional Registration re-quires. Annually, the board shall elect a chairperson, vice chairperson and secretary by a majority of board member votes and in the absence of the chairperson, the vice chairperson shall preside. In even-numbered years the chairperson shall be elected from the respiratory members and the vice chairperson shall be elected from the non-respiratory members. In odd-numbered years the chairperson shall be elected from the non-respiratory members and the vice chairperson shall be elected from the respiratory members. All notices of meetings shall be posted in compliance with Chapter 610, RSMo.*

*(3) The director of the Division of Professional Registration or a designated representative of the division shall be responsible for keeping the minutes of board proceedings and perform other duties as requested by the division or board.]*

*[[4]](2) Board meetings will generally consist of establishing requirements for issuance and renewal of licenses, reviewing applications, interviewing applicants, investigating complaints and inquiries, review and approval of continuing education programs, and determining disciplinary actions regarding licensed respiratory care practitioners or temporary permit holders.*

*[[5]](3) Unless otherwise provided by the statutes or regulations, all meetings of the board may be conducted according to Robert's Rules of Order.*

*AUTHORITY: sections 334.800, 334.830, 334.840, and 334.850, RSMo [Supp. 1997] 2016. This rule originally filed as 4 CSR 255-1.010. Original rule filed June 25, 1998, effective Jan. 30, 1999. Moved to 20 CSR 2255-1.010, effective Aug. 28, 2006. Amended: Filed March 9, 2018.*

*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 Board for Respiratory Care, Attention: Vanessa Beauchamp, PO Box 1335, Jefferson City, MO 65102, by facsimile to (573) 526-3489, or via email to rcp@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 2255—Missouri Board for Respiratory Care  
Chapter 1—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2255-1.020 Policy for Release of Public Records.** The board is amending section (3).

*PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.*

(3) The director of the Division of Professional Registration or a designated representative of the division shall be the custodian of records [as required by] pursuant to section 610.023, RSMo. The division is responsible for maintaining board records and responding to requests for access to public records.

*AUTHORITY: sections 334.800, 334.840.2, [and] 334.850, [RSMo Supp. 1997] and 610.010–610.200, RSMo [1994 and Supp. 1997] 2016. This rule originally filed as 4 CSR 255-1.020. Original rule filed June 25, 1998, effective Jan. 30, 1999. Moved to 20 CSR 2255-1.020, effective Aug. 28, 2006. Amended: Filed March 9, 2018.*

*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 Board for Respiratory Care, Attention: Vanessa Beauchamp, PO Box 1335, Jefferson City, MO 65102, by facsimile to (573) 526-3489, or via email to rcp@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 2255—Missouri Board for Respiratory Care  
Chapter 4—Continuing Education Requirements**

**PROPOSED AMENDMENT**

**20 CSR 2255-4.010 Continuing Education Requirements.** The board is amending subsection (6)(B).

*PURPOSE: This rule is being amended to reduce unnecessary regulatory restrictions.*

(6) Courses received less than sixty (60) days prior to the program date will not be eligible for appeal. If a course is denied or is accredited for fewer hours than were requested, the applicant may file an appeal, provided that the application was originally received sixty (60) days prior to the date of the program. The appeal must be in written form and must provide a detailed justification to support the applicant's appeal. The chairperson for the board will review the appeal and all accompanying documentation. If the chairperson concurs with the original decision, the appeal is considered complete and the original decision will be upheld. If there is a difference between the members' decisions, the course will be reviewed by the

full board at the next scheduled meeting.

(B) Once an application for approval has been granted by the board reapproval *[shall not be]* **is not** required for each subsequent presentation given within three (3) years of approval. An application for reapproval shall be submitted if any portion of the activity has changed or if it has been longer than three (3) years since initial approval.

*AUTHORITY: sections 334.840.2, [and] 334.850, [RSMo 2000] and 334.880, RSMo [Supp. 2006] 2016. This rule originally filed as 4 CSR 255-4.010. Original rule filed June 25, 1998, effective Jan. 30, 1999. For intervening history, please consult the Code of State Regulations. Amended: Filed March 9, 2018.*

*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 Board for Respiratory Care, Attention: Vanessa Beauchamp, PO Box 1335, Jefferson City, MO 65102, by facsimile to (573) 526-3489, or via email to rcp@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.*

*Effective July 1, 2019, the renewal fee will revert to its original cost, and the additional costs will end.*

*PRIVATE COST: This proposed amendment will save private entities approximately ninety-four thousand six hundred dollars (\$94,600) from April 1, 2019 through June 30, 2019. Effective July 1, 2019, the renewal fee will revert to its original cost, and the savings will end.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Tattooing, Body Piercing, and Branding, PO Box 1335, Jefferson City, MO 65102, via facsimile at (573) 526-3489, or via email at tattoo@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 2267—Office of Tattooing, Body Piercing, and  
Branding  
Chapter 2—Licensing Requirements**

**PROPOSED AMENDMENT**

**20 CSR 2267-2.020 Fees.** The office is amending sections (1) and (3).

*PURPOSE: This amendment is a one- (1-) time reduction in renewal fees.*

(1) The operator of a tattoo, body piercing, or branding establishment shall pay a biennial license fee to the office as follows:

- (C) Establishment renewal \$200
  - 1. Effective April 1, 2019 through June 30, 2019 \$100**
- (D) Combined establishment renewal \$300
  - 1. Effective April 1, 2019 through June 30, 2019 \$150**

(3) A person who wishes to practice as a tattooist, body piercer, or brander shall pay a biennial fee to the division as follows:

- (B) Renewal for practitioner \$100
  - 1. Effective April 1, 2019 through June 30, 2019 \$ 50**
- (D) Renewal for combined practitioner \$120
  - 1. Effective April 1, 2019 through June 30, 2019 \$ 60**

*AUTHORITY: section 324.522, RSMo [Supp. 2010] 2016. This rule originally filed as 4 CSR 267-2.020. Original rule filed Aug. 15, 2002, effective Feb. 28, 2003. For intervening history, please consult the Code of State Regulations. Amended: Filed March 5, 2018.*

*PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately ninety-four thousand six hundred dollars (\$94,600) from April 1, 2019 through June 30, 2019.*

## PUBLIC FISCAL NOTE

## I. RULE NUMBER

**Title 20 -Department of Insurance, Financial Institutions and Professional Registration  
Division 2267 - Office of Tattooing, Body Piercing, and Branding  
Chapter 2 Licensing Requiements  
Proposed Amendment - 20 CSR 2267-2.020 Fees**

## II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
Office of Tattooing, Body Piercing, and Branding	<b>\$94,600</b>	
	<b>Total Loss of Revenue for April 1, 2019, through June 30, 2019</b>	<b>\$94,600</b>

## III. WORKSHEET

See Private Entity Fiscal Note

## IV. ASSUMPTION

1. The total loss of revenue is based on the cost savings to private entities reflected in the Private Fiscal Note filed with this rule.
2. The board utilizes a rolling five-year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five-year analysis is based on the projected revenue, expenses, and number of licensees. Based on the board's recent five-year analysis, the board voted on a reduction in individual biennial renewal fees for dentist, dental specialist and dental hygienist.

**PRIVATE FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 -Department of Insurance, Financial Institutions and Professional Registration  
Division 2267 - Office of Tattooing, Body Piercing, and Branding  
Chapter 2 Licensing Requiriements  
Proposed Amendment - 20 CSR 2267-2.020 Fees**

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated savings for the life of the rule by affected entities:
175	Establishment Renewal (Renewal Fee Decrease @ \$100)	\$17,500
155	Combined Establishment Renewal (Renewal Fee Decrease @ \$150)	\$23,250
825	Practitioner Renewal (Renewal Fee Decrease @ \$50)	\$41,250
210	Combined Practitioner Renewal (Renewal Fee Decrease @ \$60)	\$12,600
<b>Estimated Total Cost Savings for April 1, 2019, through June 30, 2019</b>		<b>\$94,600</b>

**III. WORKSHEET**

See Table Above

**IV. ASSUMPTION**

1. The above figures are based on FY 2019 projections.
2. Individual practitioners and establishments renew biennially. This fiscal note shows the number expected to renew biennially.
3. It is anticipated that the total fiscal savings will occur beginning in FY2019, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

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

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

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

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under sections 386.040, 386.250, 393.140, 393.290, and 393.291, RSMo 2016, the commission rescinds a rule as follows:

**4 CSR 240-3.050 Small Utility Rate Case Procedure is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1641). No changes have been made in the proposed rescission, so it is not reprinted here. The proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The public comment period ended December 15, 2017, and the commission held a public hearing on the proposed rescission on December 21, 2017. The commission did not receive any written comments about the rescission, and no one offered a comment about the rescission at the public hearing.

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

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under sections 386.040, 386.250, 393.140, 393.290, and 393.291, RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-10.075 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1641-1643). 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 public comment period ended December 15, 2017, and the commission held a public hearing on the proposed rule on December 21, 2017. The commission received timely written comments from the Office of the Public Counsel and from the staff of the commission. Jacob Westen, representing the commission's staff and Natelle Dietrich on behalf of staff, as well as Ryan Smith representing the Office of the Public Counsel and Keri Roth on behalf of Public Counsel, appeared at the hearing and offered comments. Both staff and Public Counsel offered comments about the specific provisions of the proposed rule. Those comments will be addressed in relation to those provisions.

**COMMENT #1:** Public Counsel suggested the definition of "small utility" found in subsection (1)(A) be modified to limit application of this rule to smaller, less sophisticated, utilities.

**RESPONSE:** The proposed rule defines a small utility, to which the procedures described in the rule would apply, as 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. As a practical matter there are currently no gas utilities or steam utilities in Missouri that meet the definition of a small utility so the rule will affect only small water and sewer utilities at this time. As Public Counsel indicates, some utilities that meet the definition of "small utilities" are more financially and operationally sophisticated than others. Some are, in fact subsidiaries of multi-national corporations. However, there is no clear number of customers that would delineate an unsophisticated from a sophisticated small utility. The customer numbers used to define a small utility in this rule are derived from the definitions of small utilities found in current Missouri statutes. No change will be made in response to this comment.

**COMMENT #2:** Staff proposed to change the definition of "disposition agreement" to clarify that a disposition agreement has the same force and effect as a "stipulation and agreement" as that term is generally used in practice before the commission. Public Counsel indicated it does not oppose that change.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with the proposed clarification and will adopt the revised language proposed by staff.

**COMMENT #3:** Public Counsel notes that the existing Small Utility Rate Case Procedure rule includes a provision that would allow the commission to summarily dismiss a small utility's request for rate relief if it fails to timely provide staff or Public Counsel with the information needed to investigate that request. It suggests that provision should be retained in this rule.

**RESPONSE:** The commission does not believe a provision for summary dismissal for failure to provide information is either necessary or workable in practice. No change will be made in response to this comment.

**COMMENT #4:** Public Counsel is concerned that subsection (3)(B), which allows a small utility rate case to be commenced by the filing



of a complaint by staff or any eligible entity pursuant to sections 386.390.1 or 393.260.1, RSMo, could be used to initiate a vexatious or frivolous rate case. Public Counsel advises the commission to require some intervening order from the commission to initiate a rate case to avoid that possibility.

**RESPONSE:** The commission does not share Public Counsel's concern. The referenced statutes already limit the ability of non-utility entities to bring a complaint seeking a change in the utility's rates. No further limitation within this rule is necessary. No change will be made in response to this comment.

**COMMENT #5:** Public Counsel suggests that if a small utility files a tariff to initiate a small rate case procedure, as it is allowed to do under subsection (3)(C), it should be required to affirmatively state that it intends to proceed under the staff assisted rate procedure rather than as a standard rate case.

**RESPONSE AND EXPLANATION OF CHANGE:** If such a tariff were to be filed by a utility, the commission would likely presume that the intent of the utility would be to follow a standard rate case procedure. But clarity in the rule is helpful, and the commission will modify the subsection as Public Counsel suggests.

**COMMENT #6:** Public Counsel comments that a provision of paragraph (3)(A)1. allows a utility to withdraw its request for a rate increase at any time before one hundred fifty (150) days after it files its request to initiate the procedure. Public Counsel suggests the utility be allowed to withdraw its request at any time during the process, as would be allowed under the currently effective rule.

**RESPONSE:** The commission does not agree with Public Counsel. After the procedure has reached the 150th day, staff will have proceeded sufficiently with its investigation and audit to have an idea of whether a rate increase, or possibly a rate decrease, is necessary to ensure the existence of just and reasonable rates. At that stage of the process it may no longer be appropriate to allow the utility to unilaterally withdraw from the ratemaking process. No change will be made in response to this comment.

**COMMENT #7:** Public Counsel is concerned that section (4), which indicates staff will assist a small utility in processing a small utility rate case to the extent that assistance is "consistent with staff's function and responsibilities to the commission," overstates the permissible involvement staff may have in the rate process. Specifically, Public Counsel contends staff may not represent the utility and may not undertake the utility's statutorily established burden of proving that its proposed rates are just and reasonable.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees its staff may not represent the utility and further, that section 393.150.2, RSMo establishes that the utility bears the burden of proving that its proposed rates are just and reasonable. This rule is not intended to change either fact. But the commission wants to clearly authorize staff to assist small utilities through the process established by this rule to the extent possible.

Assisted rate cases for small utilities are necessary to ensure that rates are periodically reviewed. Some small utilities can be intimidated by the prospect of a rate case, and, if not assisted through the process, may forego a necessary rate case. Some small utilities have waited more than twenty (20) years to request a rate case. At best, that means their ratepayers may face a very large rate increase when rates are finally adjusted. At worst, the small utility may not have sufficient revenue to meet its obligations and can enter a downward spiral of deferred or ignored maintenance, leading to poor or unsafe service, from which it may not be able to recover.

The commission will modify section (4) to make it clear that staff is neither authorized to represent the utility, nor to assume the utility's burden of proof.

**COMMENT #8:** Public Counsel is concerned about two (2) aspects of subsection (5)(A). That subsection allows staff and the small util-

ity to agree in writing to extend the procedural timeline established by this case by thirty (30) days without the approval of the commission or any other party, which in practice means Public Counsel. Staff explained that the allowable thirty- (30-) day extension would not extend the ultimate two hundred seventy- (270-) day deadline for issuance of the commission's final decision regarding the rate increase request that is required by section (13) of this rule.

Public Counsel urges the commission to allow for a sixty- (60-) day extension of the procedural timeline as is allowed under the commission's current rule, arguing that more time may be needed to process a small rate case. Public Counsel would also like to be included in the decision of whether the procedural timeline should be extended.

**RESPONSE AND EXPLANATION OF CHANGE:** The small utility should have a say in whether the procedural timeline should be extended, as it is the utility's request for a rate adjustment that will be delayed by any extension. But under the proposed rule, the requested extension does not delay the rate adjustment, rather it places a burden on Public Counsel to present its case in a shortened period and burdens the commission by reducing its time to deliberate and issue a decision. This revised rule already reduces the procedural timeline for final resolution of the rate request from eleven (11) months to two hundred seventy (270) days. If the timeline is extended, the entire timeline should be extended.

Staff is appropriately involved with any decision to extend the timeline because it is primarily responsible for conducting the investigation and audit of the small utility. With the modification extending the entire procedural timeline, Public Counsel's involvement in the extension decision becomes less important. The commission will allow for a thirty- (30-) day extension of each aspect of the timeline, but will leave that decision with the utility and staff. The commission will modify the rule accordingly.

**COMMENT #9:** Staff explained that section (6) of the revised rule will change the timing of any local public hearing the commission may have at a location near the service territory of the small utility. Under the current regulation, such a local public hearing, if held at all, would be scheduled later in the procedural schedule, after staff has completed its investigation and audit, and after a disposition agreement has been reached. The new rule would call for the local public hearing to be scheduled much earlier in the process; within sixty (60) days after the opening of the case. It would also require that such local public hearing be held unless all parties agree it is not necessary.

Public Counsel is concerned that having a local public hearing so early in the process will not be helpful because little information about the investigation and audit will be available to be shared with the ratepayers at that time. It suggests that if a local public hearing is held, it would be more productive later in the process. Public Counsel and staff agree it would not be advisable to have both an early and late local public hearing in the same case.

**RESPONSE:** Moving the local public hearing to an earlier time in the process will allow the commission, its staff, Public Counsel, and the utility to hear the concerns of the utility's customers about rates and the service they receive early enough in the process to make a difference in staff's investigation and audit, and to influence any resulting disposition agreement. The commission will not make any change in response to this comment.

**COMMENT #10:** Section (7) of the proposed rule establishes the notice to be given to a small utility's ratepayers; describing the filing of the request for the rate increase and indicating how ratepayers may participate in that process. Staff explained that the proposed rule ties that notice with the notice of the setting of the local public hearing early in the process. Even if no local public hearing is scheduled, the single notice would still be given early in the process. Public Counsel urges the commission to continue the practice under the current rule of issuing both an early notice at the start of the process, and a later

notice issued after completion of the audit and investigation and filing of a disposition agreement.

**RESPONSE:** The commission believes that a single notice as contemplated in the proposed rule is appropriate, particularly as applied to the revised timing of a local public hearing to occur earlier in the process. The issuance of notices at multiple times in the process could unnecessarily confuse ratepayers. Ratepayers who are given notice early in the process can follow the process to its completion if they choose to do so. The commission will not make any change in response to this comment.

**COMMENT #11:** Public Counsel comments that subsection (7)(C) notifies customers that they have thirty (30) days to submit comments about the proposed rate increase. Public Counsel contends there is no reason to put a time limit on such comments.

**RESPONSE:** The commission is willing to accept comments from the public at any time, but the time limit stated in the notice is appropriate so that such comments can be available to staff as it prepares its investigation and audit and to Public Counsel as it makes its preparations. The commission will not make any change in response to this comment.

**COMMENT #12:** Public Counsel points to a problem with how section (7) of the proposed rule is structured. As proposed, subsections (7)(A)–(D) are intended to delineate the content of the notice to be given to ratepayers. Subsection (7)(E) directs staff to file a copy of that notice in the file. But the way the rule is structured, subsection (7)(E) incorrectly appears to be another item to be included in the notice given to ratepayers.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with the comment. Section (7) will be restructured to create a subsection (7)(A) that includes the items to be included in the notice as paragraphs. The existing subsection (7)(E) is retained as a separate subsection.

**COMMENT #13:** Public Counsel is concerned that section (8), which describes the investigation and audit that shall be conducted by staff, and may be conducted by Public Counsel, could be interpreted in a way that would require Public Counsel to either undertake a detailed investigation or be barred from any participation in the case.

**RESPONSE:** The commission reassures Public Counsel that its intent in modifying this rule is not to limit Public Counsel's ability to fully participate in these rate cases involving small utilities. The specific provisions of the proposed rule that concern Public Counsel will be addressed in subsequent comments.

**COMMENT #14:** Public Counsel notes that subsection (8)(A) indicates staff's audit and investigation will follow staff internal procedures to ensure reasonable consistency. Public Counsel does not object to that provision, but asks that such internal procedures be made available to the public. Staff indicated such procedures are just general guidelines on how staff will conduct its investigations, not specific one-size-fits-all requirements. Staff internal policies would be made available to any member of the public that wishes to see them.

**RESPONSE AND EXPLANATION OF CHANGE:** The subsection's reference to staff's internal procedures is unnecessary and could be interpreted as incorporating an unpublished document into the rule. The commission will remove the reference to separate internal procedures from the subsection.

**COMMENT #15:** Subsection (8)(C) currently requires that data requests submitted to the utility are to be shared with all parties. Public Counsel suggests data request responses from the utility should also be shared.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees and the subsection will be modified to add that require-

ment

**COMMENT #16:** Public Counsel questions a provision in subsection (8)(E) that allows for the use of estimated values of normal expense items and rate base items in determining the small utility's cost of service. Public Counsel is concerned that such language in the rule would create confusion about whether the utility has met its statutory burden to prove that the rates it is requesting are just and reasonable and supported by competent and substantial evidence.

**RESPONSE:** The commission agrees that this rule cannot change the statutory burden of proof placed on the utility. Nothing in the rule is intended to do so. After hearing the evidence, the commission will decide whether any estimated value is sufficiently reliable to be competent and substantial evidence. No change will be made in response to this comment.

**COMMENT #17:** Public Counsel is concerned about subsection (8)(D), which requires an update of the utilities rate base be included in an "investigation," and subsection (8)(F), which requires staff to provide all parties with a report describing the results of its investigation and audit no later than ninety (90) days after the rate case is opened. In addition to directing staff to file its report, subsection (8)(F) directs Public Counsel to provide such a report if it is "conducting its own investigation." Public Counsel does not believe the commission has authority to require it to conduct any particular investigation, and is concerned that if it chooses not to conduct a full investigation it might be precluded from otherwise participating in the case.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission does not intend to force Public Counsel to conduct any particular investigation and the intent of section (8) is to guide staff's investigation. To assuage Public Counsel's fears, the commission will change each reference to "the" investigation in this section to "staff's" investigation. In addition, the commission will add a new subsection (8)(G) to require Public Counsel to report the results of whatever investigation it chooses to conduct.

**COMMENT #18:** Section (9) directs staff to submit a confidential settlement proposal no later than one hundred twenty (120) days after the small utility rate case is opened. It also requires Public Counsel to submit its own confidential settlement proposal if it chooses to conduct its own investigation. Public Counsel objects to the provisions of the section that would require Public Counsel to submit a settlement proposal or that would specify the contents of any settlement proposal Public Counsel might choose to submit.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission intended this rule to give Public Counsel an opportunity to submit a settlement proposal in any case if it wishes to do so. It also wants to give staff and the utility a fair opportunity to respond to whatever settlement proposal Public Counsel offers. However, the commission recognizes that Public Counsel may choose for itself the extent to which it chooses to participate in any case before the commission. For that reason, the commission will delete paragraph (9)(A)3. and modify paragraph (9)(A)4., which purport to require Public Counsel to include certain items in any settlement proposal it may choose to submit. In addition, the commission will modify subsection (9)(A) to clarify that Public Counsel may submit a settlement proposal, but is under no obligation to do so.

**COMMENT #19:** Public Counsel expressed concern about a provision of subsection (9)(C) that would require any party responding to a settlement proposal to provide audit workpapers, rate design workpapers, or other documents in its possession that support its suggestions. Public Counsel fears that many small utilities will not have such workpapers and documents to be able to include them with their response.

**RESPONSE:** The proposed subsection merely requires the responding parties to provide any such documents they possess. It does not

require them to create or produce any documents they do not already have in their possession. No change to the subsection will be made in response to the comment.

COMMENT #20: Public Counsel expressed concern about the appropriateness of the wording of paragraphs (11)(A)1. and 2. Staff suggested modifications to improve that wording.

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt the modified language proposed by staff.

COMMENT #21: Public Counsel suggests subsection (11)(C) be modified to require additional notice be sent to ratepayers to inform them that a rate tariff has been filed.

RESPONSE: The commission does not believe additional notice is needed at that point in the process. No change will be made in response to this comment.

COMMENT #22: Paragraph (11)(E)1. allows the small utility to request to be excused from participation in an evidentiary hearing where at least the staff and the utility have entered into a disposition agreement to fully resolve the rate case. Public Counsel objects that allowing the utility to avoid participation in the hearing would leave the utility unable to meet its statutory burden of proof and would improperly shift that burden of proof to staff.

RESPONSE: The commission does not share Public Counsel's concerns. As the commission clarified in response to comment #2, "disposition agreement" is defined to be the equivalent of a "stipulation and agreement" in practice before the commission. If staff and the small utility have entered into a disposition agreement to which another party has objected, then the disposition agreement becomes merely a joint position of the signatory parties, to which neither party is bound. But, if staff and the small utility choose to present the disposition agreement as their joint position, then staff can choose to present that position on its own behalf and the small utility does not need to duplicate staff's efforts at the hearing. Each aspect of the disposition agreement would need to be supported by competent and substantial evidence, but that supporting evidence could be provided by staff. No changes will be made in response to this comment.

COMMENT #23: Public Counsel is concerned that section (13) allows the commission only twenty (20) days to deliberate and decide a rate case after it has been finally submitted by the submission of final briefs.

RESPONSE AND EXPLANATION OF CHANGE: The commission shares that concern, but believes it is important to have a goal of completing these cases in a timely fashion so that just and reasonable rates can be established. However, the commission recognizes that circumstances may arise that will require additional time to deliberate and decide a case. For that reason, section (15) will be modified to explicitly provide that the two hundred seventy- (270-) day deadline for a final decision established in section (13) may be waived for good cause shown.

#### 4 CSR 240-10.075 Staff Assisted Rate Case Procedure

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

(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, and has the same weight as a stipulation and agreement as defined in 4 CSR 240-2.115.

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

(C) A proposed tariff stating a new rate or charge filed by a small utility pursuant to section 393.150.1, RSMo, if accompanied by a written statement requesting the use of the procedures established by this rule.

(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. Staff may not represent the small utility and may not assume the small utility's statutory burden of proof to show that any increased rate is just and reasonable.

(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, including the date for issuance of the commission's report and order, 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.

(7) Notice.

(A) 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—

1. The time, date, and location of the local public hearing, consistent with the order setting the hearing, if applicable;

2. 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;

3. 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; and

4. Instructions for viewing the publicly available filings made in the case via the commission's electronic filing system.

(B) 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) Staff's 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 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) Staff's investigation may include a review of the records generated 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 requests to the utility, copies of the data requests shall be provided to all parties to the case when they are submitted to the utility. The utility's responses to such data requests shall also be shared.

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

(F) Not later than ninety (90) days after a small utility rate case is opened, the staff 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.

(G) If the public counsel is conducting its own investigation it shall, not later than ninety (90) days after a small utility rate case is opened, provide to all parties a report regarding whatever investigation it has conducted.

## (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 shall, and the public counsel if proposing its own settlement, may provide to all parties to the case, a confidential settlement proposal.

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. If OPC makes a settlement proposal, it shall include the following documents:
  - A. OPC's updated workpapers; and
  - B. Any other documents supporting OPC's settlement proposal.

## (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 involving, at a minimum, staff and the utility, and providing for a full resolution of the small utility rate case;
2. A disposition agreement involving, at a minimum, staff and the utility, and 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.

(15) Waiver of Provisions of this Rule. Any provision of this rule, including the requirement that the commission's report and order to resolve the case be effective no later than two hundred seventy (270) days after the small utility rate case is opened, may be waived by the commission upon a finding of good cause.

**Title 5—DEPARTMENT OF ELEMENTARY  
AND SECONDARY EDUCATION  
Division 20—Division of Learning Services  
Chapter 500—Office of Adult Learning and  
Rehabilitation Services**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Education (board) under section 161.092, RSMo 2016, the board rescinds a rule as follows:

**5 CSR 20-500.310** Reporting Requirements is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 1, 2017 (42 MoReg 1760). No changes have been made in the proposed rescis-

sion, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY  
AND SECONDARY EDUCATION  
Division 20—Division of Learning Services  
Chapter 500—Office of Adult Learning and  
Rehabilitation Services**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Education (board) under section 161.092, RSMo 2016, the board rescinds a rule as follows:

**5 CSR 20-500.340** Standards for the Determination of Eligible Training Providers and Administration of Reimbursement for the Education of Persons Under the Workforce Investment Act of 1998 and Other Employment Training Funding Sources Contracting With the State Board of Education is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 1, 2017 (42 MoReg 1760). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 536.023, RSMo 2016, the commission amends a rule as follows:

**7 CSR 10-1.010** Description, Organization, and Information is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1643-1645). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 7—Transportation**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 208.265, RSMo 2016, the commission amends a rule as follows:

**7 CSR 10-7.010** Distribution of Funds Appropriated to the Missouri Elderly and Handicapped Transportation Assistance Program is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1645). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 12—Scenic Byways**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.020, 226.130(2), 226.797–226.799, and 227.030, RSMo 2016, the commission amends a rule as follows:

**7 CSR 10-12.010** Scenic Byways is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1646). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 12—Scenic Byways**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.020, 226.150, 226.797, 226.798, and 226.799, RSMo 2016, and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, the commission amends a rule as follows:

7 CSR 10-12.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1646–1647). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Highways and Transportation Commission received one (1) comment on the proposed amendment.

COMMENT #1: Missouri Farm Bureau President Blake Hurst wrote a December 15, 2017 letter to the commission that generally supported the amended rules and urged the department to revise the proposed amended rule by keeping existing rule language that requires the inclusion of an action plan in the corridor management plan for a scenic byway.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the Missouri Farm Bureau's request. Subsection (2)(B) of the amended rule will be changed to retain the inclusion of an action plan in the corridor management plan for a scenic byway.

**7 CSR 10-12.020** Application Procedures

(2) Application. 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.

(B) Each application should include 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.

1. Guidelines for preparing a corridor management plan can be obtained from the Missouri Department of Transportation.

2. 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.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 226.020, 226.150, 226.797, 226.798, and 226.799, RSMo 2016, and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, the commission amends a rule as follows:

**7 CSR 10-12.030** Nomination Review Process is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1647–1648). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Highways and Transportation Commission received one (1) comment on the proposed amendment.

COMMENT #1: Missouri Farm Bureau President Blake Hurst wrote a December 15, 2017 letter to the commission that generally supported the amended rules and also supported MoDOT's retention of current rule language that requires support from all governing bodies in order for a road nominated for scenic byway status to continue.

RESPONSE: No express change to the rule was requested so no change to the amendment is being made.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under Article IV, Section 29, Missouri Constitution, section 226.535, RSMo 2016, and Title 23, *United States Code*, Section 131(f), the commission amends a rule as follows:

**7 CSR 10-17.020 Definitions is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1648–1651). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 17—Supplemental Guide Sign Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under Article IV, Section 29, Missouri Constitution, section 226.535, RSMo 2016, and Title 23, *United States Code*, Section 131(f), the commission amends a rule as follows:

**7 CSR 10-17.030 Administration is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1651–1652). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 17—Supplemental Guide Sign Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under Article IV, Section 29, Missouri Constitution, sections 226.020, 226.130, and 226.525, RSMo 2016, the commission amends a rule as follows:

**7 CSR 10-17.040 Requirements for Tourist Oriented Directional  
Signing is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1652–1653). 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 publica-

tion in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under Article IV, Section 29, Missouri Constitution, section 226.535, RSMo 2016, and Title 23, *United States Code*, Section 131(f), the commission amends a rule as follows:

**7 CSR 10-17.050 Logo Signing is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1653–1654). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 17—Supplemental Guide Sign Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 226.525, RSMo 2016, and Title 23, *United States Code*, Section 131, the commission amends a rule as follows:

**7 CSR 10-17.060 Traffic Generators is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1654–1655). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 18—Contractor Disqualification for Misconduct**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under Article IV, Section 29, Missouri Constitution, sections 226.020, 226.130, 226.150, 227.030, 227.100, and 227.210, RSMo 2016, and 49 CFR Part 29, the commission amends a rule as follows:

**7 CSR 10-18.020 Causes for Disqualification is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1655–1656). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 27—David’s Law Signing**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 227.295, RSMo 2016, the commission amends a rule as follows:

**7 CSR 10-27.020 Eligibility is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1656). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 27—David’s Law Signing**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under section 227.295, RSMo 2016, the commission amends a rule as follows:

**7 CSR 10-27.040 Administration is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1656–1657). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 9—Rail Fixed Guideway Systems**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-9.010 Applicability of Chapter; Definitions is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1657–1658). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 9—Rail Fixed Guideway Systems**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-9.020 State Safety Oversight Agency Authorities and Requirements is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1658–1659). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 9—Rail Fixed Guideway Systems**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission rescinds a rule as follows:

**7 CSR 265-9.040 Safety Reviews Shall Be in Accordance with Federal Transit Administration (FTA) Standards is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1659). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-9.050 Signs is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1659–1660). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 9—Rail Fixed Guideway Systems**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission rescinds a rule as follows:

**7 CSR 265-9.060 Drug and Alcohol Testing is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1660). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027 RSMo, the commission amends a rule as follows:

**7 CSR 265-9.070 Hours of Service is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1660–1661). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 9—Rail Fixed Guideway Systems**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission rescinds a rule as follows:

**7 CSR 265-9.090 Walkways is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 2017 (42

MoReg 1661). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-9.100 Rail-Highway Grade Crossing Construction and Maintenance is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1661). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 9—Rail Fixed Guideway Systems**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-9.110 Rail-Highway Grade Crossing Warning Devices is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1661–1662). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 9—Rail Fixed Guideway Systems**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

**7 CSR 265-9.130 Visual Obstructions at Public Grade Crossings is amended.**

A notice of proposed rulemaking containing the text of the proposed



amendment was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1662). 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 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 9—Rail Fixed Guideway Systems**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission rescinds a rule as follows:

**7 CSR 265-9.140** Dedicated Rail Fixed Guideway Telephone is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1662). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission rescinds a rule as follows:

**7 CSR 265-9.150** Accidents and Hazards, Compliance with Federal Transit Administration (FTA) Notification is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1663). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 50—Missouri State Highway Patrol  
Chapter 2—Motor Vehicle Inspection Division**

**ORDER OF RULEMAKING**

By the authority vested in the superintendent of the Missouri State Highway Patrol under section 307.360, RSMo 2016, the superintendent hereby amends a rule as follows:

**11 CSR 50-2.010** Definitions is amended.

A notice of proposed rulemaking containing the text of the proposed

amendment was published in the *Missouri Register* on December 1, 2017 (42 MoReg 1764–1765). 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 and 332.171.2, RSMo 2016, the board rescinds a rule as follows:

**20 CSR 2110-2.085** Definitions of Dental Specialties is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 2, 2018 (43 MoReg 10). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 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 section 332.311.2, RSMo 2016, the board rescinds a rule as follows:

**20 CSR 2110-2.132** Dental Hygienists—Equipment Requirements for Public Health Settings is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 2, 2018 (43 MoReg 10–11). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 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 section 332.031, RSMo 2016, the board rescinds a rule as follows:

**20 CSR 2110-2.220 Mandatory Reporting is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 2, 2018 (43 MoReg 11-12). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2245—Real Estate Appraisers  
Chapter 2—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under sections 339.509 and 339.537, RSMo 2016, the commission amends a rule as follows:

**20 CSR 2245-2.050 Appraiser's Assignment Log is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2017 (42 MoReg 1842). 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 2245—Real Estate Appraisers  
Chapter 6—Educational Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under sections 339.509 and 339.517, RSMo 2016, the commission rescinds a rule as follows:

**20 CSR 2245-6.010 General is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 2, 2018 (43 MoReg 12). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2245—Real Estate Appraisers  
Chapter 10—Appraisal Management Company**

**ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under sections 43.543, 339.509, 339.511, 339.513, and 339.544, RSMo 2016, the commission amends a rule as follows:

**20 CSR 2245-10.010 Appraisal Management Company Application Requirements is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2017 (42 MoReg 1842-1844). 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 2245—Real Estate Appraisers  
Chapter 10—Appraisal Management Company**

**ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under sections 339.509, 339.511, and 339.544, RSMo 2016, the commission amends a rule as follows:

**20 CSR 2245-10.020 Appraisal Management Company Standards of Practice is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2017 (42 MoReg 1845). 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 2245—Real Estate Appraisers  
Chapter 10—Appraisal Management Company**

**ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under sections 339.511, 339.525, and 339.544, RSMo 2016, the commission amends a rule as follows:

**20 CSR 2245-10.030 Renewal is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2017 (42 MoReg 1845-1846). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.