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

MAR 09 2018  
SECRETARY OF STATE  
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

COPY

[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 publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.*

(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—

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**

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**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.\* Original rule filed June 22, 1998, effective Feb. 28, 1999. Amended: Filed March 9, 2018.*

*\*Original authority: 622.027, RSMo 1985, amended 1993, 1995.*

*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 (\$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.*