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SECRETARY OF STATE
ADMINISTRATIVE RULES

Title [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT] TRANSPORTATION
Division 265—[Division of]Motor Carrier and Railroad Safety
Chapter [2]10—[Practice and Procedure]Motor Carrier Operations

PROPOSED AMENDMENT

COPY

[4 CSR 265-2.030]7 CSR 265-10.017 Records of the Division. The Missouri Highways and Transportation Commission is amending section (1), and deleting sections (2), (3), and (4).

PURPOSE: This proposed amendment updates the process of maintaining records and replaces Administrative Law Judge with Administrative Hearing Commission.

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

1) 49 U.S. Code sections 504 and 523(c) (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) The director of the Missouri Department of Transportation Motor Carrier Services division, or the director's designee shall [keep a full and true record of all the proceedings of the division, of all books, maps, documents and papers ordered filed by the division and of all orders made by each of the administrative law judges. In addition, the director shall]maintain a [docket] record of all proceedings filed[with proceedings set for hearing and shall assign each matter an appropriate docket number] with the Administrative Hearing Commission. [These] Open records shall be available for public inspection and copying[at the office of the director from 8:00 a.m. to 12:00 noon, and 1:00 p.m. to 5:00 p.m., Monday through Friday, except for legal holidays or as otherwise provided in subsection (1)(A) of this rule].

(A) The following records of the division, or possessed by the division, shall be closed records, and shall not be open to public inspection or copying, or made public, except as otherwise provided by order or permission of a court, the [division's a] Administrative [law judge] Hearing Commission, or when formally filed with the division in a hearing or proceeding, or when otherwise required to be made public under the rules of the division or Chapters 386—391, RSMo. The closure of records to public access under this subsection shall not be deemed to preclude lawful discovery of these records by a party in an administrative or court proceeding:

1. All records which may be closed records under Chapter 610, RSMo;
2. Under section 386.480, RSMo, all information furnished to the division or its employees by any motor carrier, [railroad corporation, street railroad corporation,] their agents or employees or by any corporation or person subject to the jurisdiction of the division, pursuant to the requirement of any statute or court order, any rule, order or subpoena of the division or [its]the [a]Administrative [law judge]Hearing Commission, or any audit, investigation or discovery by the division staff, except that insurance certificates, surety bonds, endorsements and cancellation notices filed pursuant to section 390.126, RSMo or [4]7 CSR 265-10.030 shall be open records;

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3. Under 49 U.S.C. section 523(c), all records or information acquired by division staff during an inspection of the equipment or records of a motor carrier[, a private carrier by motor vehicle] or a lessor of equipment to such a carrier, if that inspection was delegated and funded or reimbursed by the Secretary of Transportation of the United States under 49 U.S.C. section 504; and

4. Under section 387.310, RSMo, any fact or information received by the division or its staff during the course of any inspection or examination of [railroad corporations, street railroad corporations and] common carriers.

[(2) The director of the division shall be the official custodian of records for the division and shall be responsible for maintaining the division's records. The director may delegate some or all of his/her custodial duties to division personnel under his/her supervision. Requests for access to or copies of public records of the division may be made in writing addressed to Director, Missouri Division of Motor Carrier and Railroad Safety, P.O. Box 1216, Jefferson City, MO 65102 or in person at the division's principal office. Copies of records, papers and official documents furnished to public officers for use in their official capacity will be provided without charge. All other persons requesting copies of public records of the division shall be liable for the actual cost of document search and duplication, and shall make payment, in full, within thirty (30) days of invoice.

(3) Every person who requests access to public records of the division may be required, before access is granted, to deposit a driver's license or other positive identification as a security deposit with the custodian of records, to be retained until the person finishes reviewing the records and returns the records to the custodian. No person shall damage, mutilate, deface or otherwise alter the original records of the division, except duly authorized state personnel in the course of the authorized destruction of records as prescribed by law, nor shall any person remove any original records of the division from the offices of the division without the written permission of the custodian of records or his/her authorized representative.

(4) For a certificate authorizing an issue of bonds, notes or other evidences of indebtedness, a fee of one dollar (\$1) will be charged for each thousand dollars of the face value of the authorized issue or fraction of it, up to one (1) million dollars; and a fee of fifty cents (50¢) will be charged for each one thousand dollars (\$1000) over one (1) million dollars and up to ten (10) million dollars; and a fee of twenty-five cents (25¢) will be charged for each one thousand dollars (\$1000) over ten (10) million dollars, with a minimum fee in any case of twenty-five dollars (\$25); provided, that no fee shall be charged for an issue or that part of an issue which is made for the purpose of guaranteeing, taking over, refunding, discharging or retiring any bond, note or other evidence of indebtedness up to the amount of the issue guaranteed, taken over, refunded, discharged or retired.]

*AUTHORITY: section 622.027, RSMo 1994. * 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 17, 1989, effective Sept. 11, 1989. Amended: Filed Nov. 4, 1992, effective July 8, 1993. Emergency amendment filed Dec. 1, 1994, effective Dec. 11, 1994, expired Dec. 19, 1994. Emergency amendment filed Dec. 20, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency amendment filed April 20, 1995, effective May 1, 1995, expired Aug. 28, 1995. Emergency amendment filed Aug. 18, 1995, effective Aug. 29, 1995, expired Feb. 24, 1996. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Amended: Filed October 14, 2016.*

**Original authority: 622.027, RSMo 1985, 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 Department of Transportation, Pam Harlan, Secretary to the Commission, PO Box 270, 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.*