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SECRETARY OF STATE  
ADMINISTRATIVE RULES

Title 7--DEPARTMENT OF TRANSPORTATION  
Division 10--Missouri Highways and Transportation Commission  
Chapter 18--Contractor Disqualification for Misconduct

PROPOSED AMENDMENT

**7 CSR 10-18.040 Opportunity to Appeal Proposed Disqualification and Review Board Proceedings.** The Missouri Highways and Transportation Commission is amending sections (3), (4), and (5) and adding a new section (7). **COPY**

*PURPOSE:* This proposed amendment adds language that no appeal will be taken when the action involves a conviction, judgment, admission or debarment or other ineligibility determined by a state, political subdivision or federal entity.

(3) Review Board Proceedings. The review board shall review the information received by the department and the contractor regarding the proposed disqualification. The contractor may submit documentation to support its position at the informal hearing. The contractor may also present any argument regarding the proposed disqualification. Additionally, the review board may request further information or documentation from the contractor or any department employee, and shall be provided with any further information or documents [that the appropriate division engineer or director] deemed[s] relevant to its review. Upon review of all the information provided to the review board, the review board will make its written findings and recommendations to the chief engineer.

(4) Time of Review Board's Proposed Finding and Recommendation. The review board will make its findings and recommendations within thirty (30) days after the conclusion of the review board's [review]hearing.

(5) Review Board's Written Report. The review board shall make a written report to the chief engineer, summarizing its findings and recommendations regarding whether the contractor should be disqualified. **A cause for disqualification must be established by a preponderance of the evidence.** The chief engineer may concur in or modify the review board's findings and recommendations.

(7) **No Appeal for Certain Causes of Disqualification.** Whenever a proposed action is based upon a conviction, judgment, admission, or debarment or other declaration of ineligibility by another state, political subdivision, or federal entity for any of the causes listed in (1) (C) or (E) of 7 CSR 10-18.020, and adequate evidence of that event may be established by documented evidence a fact-finding hearing need not be conducted.

*AUTHORITY:* Art. IV, section 29, Mo. Const., sections 226.020, 226.150, 227.030, 227.100 and 227.210, RSMo (1994), 226.130, RSMo (Cum. Supp. 1996) and Title 49 Code of Federal Regulations part 29. \* Original rule filed Dec. 12, 1996, effective June 30, 1997. Amended: Filed December 8, 2016.

JOINT COMMITTEE ON

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*\*Original authority: 226.020, RSMo (1939); 226.130, RSMo (1939), amended 1993, 1995; 226.150, RSMo (1939), amended 1977; 227.030, RSMo (1939); 227.100, RSMo (1939), amended 1963, 1967, 1969; and 227.210, RSMo (1939).*

*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, Pamela 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.*