

Biennial Report of MoDOT Administrative Rules Including Rules that Impact Small Business

Title 7 - Missouri Department of Transportation Division 10 - Missouri Highways and Transportation Commission

Division	Chapter / Rule Name	Affects Small Business (Yes/No)	Public Purpose / Interest in Adopting Administrative Rule	Justify Rule's Continued Existence
HR	1 - Organization; General Provisions	No	This rule is required by law to establish public notice of MoDOT's organizational structure.	Section 536.023 RSMo requires each state agency to adopt a description of its organization, the general courses and methods of its operation, and the methods and procedures for the public to request and obtain information as a rule.
MT	2 - Traffic Regulation	Yes	Restrict statutory weights of vehicles using various roads and bridges to limit weights on or close those roads in time to save bridges, pavements and roadways which may from time-to-time be weakened or endangered by flood, weather, explosion, earthquake, accident or other causes.	Need to provide for the safety of the traveling public utilizing the roadways and bridges. Also, damage of the roadways or bridges by vehicle weights may cause incalculable or irreparable loss and damage to the traveling public, as well as great cost to the state and its taxpayers to make repairs to the roadways or bridges after they are damaged. Also, 7 CSR 10-2.030 expired on August 31, 1989, and is no longer in effect. The need for this rule no longer exists.
DE	3 - Utility and Private Line Location and Relocation	Yes	The purpose of Chapter 3 is to provide uniform guidance for utility companies, large and small alike, when paralleling State Highway Right of Way in the utility corridor or crossing a state highway. This rule also applies to private crossing of the highway system.	This rule should remain in place to provide for the consistent use of state highway Right of Way for utility facilities. The compliance to this rule should not impose an economic burden to any utility as it reflects the industry standard in the respective facilities.
RW	4 - Uniform Relocation Assistance	Yes - as the acquisition of right of way for the public use may impact small businesses.	This rule provides a uniform system for administrative review of department determinations as to the eligibility for relocation assistance payments, the amount of relocation assistance payments, or both, as required under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). As such, 7 CSR 10-4.020 Relocation Assistance Program incorporates the Missouri Highway and Transportation Commission's Relocation Assistance Program Manual to ensure compliance with the federal uniform act, state statute and subsequent case law.	As a condition to receipt of federal-aid highway funds, the Commission is required to comply with the Uniform Act at 42 U.S.C. 4601.

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RW	5 - Junkyards	Yes - the control of junkyards impacts small business operators statewide.	This rule provides a uniform system for issuing licenses to regulate the establishment, operation and maintenance of junkyards along the interstate and primary highway systems as required under the federal Highway Beautification Act (HBA) of 1965. The HBA, under 23 U.S.C. § 136(a): is to "protect the public investment in highways; to promote the safety and recreational value of public travel; and to preserve natural beauty." Whereas Congress "finds and declares that the establishment and use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled".	Absent the effective control of junkyards, federal-aid highway funds apportioned on or after January 1, 1968, to any State which the United States Department of Transportation Secretary determines has not made provision for effective control of the establishment and maintenance along the Interstate System and the primary system of outdoor junkyards, which are within one thousand feet of the nearest edge of the right of way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10% of the amounts which would otherwise be apportioned to such State until such time as such State shall provide for such effective control.
RW	6 - Outdoor Advertising	Yes - the control of outdoor advertising impacts small businesses statewide.	This rule provides a uniform system to effectively control outdoor advertising along certain federal-aid highway systems as required by the federal HBA.	The HBA requires States to "effectively control" outdoor advertising along certain federal-aid highway systems. These highway systems are the Interstate system, the federal-aid primary system (as it existed on June 1, 1991), and the National Highway System. Under §131(b), the failure to comply with the HBA can subject a State to the loss of 10% of its federal-aid highway funds.
MO	7 - Transportation	No	The purpose of the Missouri Elderly and Handicapped Transportation Assistance Program "is to provide state financial assistance to defray operating costs incurred by corporations providing transportation services to the elderly and handicapped at below cost rates as long as matching federal funds or local or private funds, or both, are available and received." (Section 208.255 RSMo)	Section 208.265 RSMo prescribes that the Director of the Missouri Department of Transportation "shall develop specific procedures and rules for the program for inclusion in the Missouri Register. These rules shall be subject to all state laws regarding the development of such rules."
CM	8 - Disadvantaged Business Enterprise Program	Yes	Certification gives construction contracting firms owned by individual(s) from historically under-represented groups a chance to earn work on federally funded MoDOT projects.	This program is required on federal-aid projects under Title 49, Code of Federal Regulations (CFR), Part 26.
TR	9 - Logo Signing	Yes - may allow small businesses to participate and display their business on state right of way.	This program is intended to help motorist find key services that travelers would typically seek while traveling across the state or county (gas, food, lodging, etc). The intent is to improve the safety of the motorist by making decisions quicker and easier to make. By allowing businesses who offer these services to participate, they are able to display their business name on state right of way, which would be illegal to do if it were not for the logo program.	The Code of State Regulations is necessary for this program as it is required by the Federal Highway Administration for any state who adopts the logo program to formally adopt a set of rules that are in compliance with the Manual on Uniform Traffic Control Devices (MUTCD).

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CM	10 - Contractor Performance Rating to Determine Responsibility	No	These rules provide for the general objectives for monitoring contractor performance, sets forth the rating criteria used to evaluate contractors, the reporting requirements and forms, and the disqualification procedures and rights of the department to disqualify a contractor. Contractors are businesses that have more than 100 employees; therefore, they would not meet the definition of a small business.	The rule is needed to ensure that only quality contractors are awarded highway projects. Contractors are rated in the areas of quality, contract compliance, contract administration and prosecution and progress. These areas are important for public safety and receiving a good value for the tax dollars invested.
GS	11 - Procurement	Yes - it requires them to seek contracts with MHTC in a competitive environment.	This section identifies the process used for solicitation of bids and to provide additional criteria for determining whether a vendor or contractor should be disqualified or suspended from bidding or should be removed from the list of bidders for Missouri Highways and Transportation Commission non-highway project contracts.	MoDOT needs to continue this rule so that all vendors and service providers have information about MoDOT's procurement processes and what is required for doing business with our agency.
RM	12 - Scenic Byways	No	Authorizes the creation and maintenance of a state system of scenic byways.	Rule is needed to provide consistent guidelines for the administration of the Scenic Byway Program.
MT / RM	13 - Plant Collection from Right-of-Way	Yes	Purpose is to provide guidelines for issuing permits for the digging or removal of plants or plant parts from the Commission's right of way.	Rule is needed to protect plants on right of way.
MT	14 - Adopt-A-Highway Program	Yes	Purpose is to provide guidelines for the Adopt-A-Highway program that allows local groups to pick up litter on state highways, which saves tax dollars.	Rule is needed to provide consistent guidelines for the administration of the Adopt-A-Highway program.
CM	15 - Contractor Prequalification	No	This rule implements the requirements concerning the prequalification contractors to bid for highway projects with an estimated cost in excess of \$2,000,000. These contractors will have more than 100 employees; therefore, they would not meet the definition of a small business.	Section 227.105.2 RSMo requires MoDOT to promulgate administrative rules that determine a contractor's minimum qualifications necessary for the contractor's bid to be acceptable for a highway project in excess of two million dollars.
MT	16 - Rest Areas	Yes	Purpose is to provide rules regarding the placement of publications in vending machines at rest areas.	Rule is needed to have established license requirements for interested persons regarding the placement of publications with appropriate content in Commission owned vending machines at rest areas and other MoDOT properties.
TR	17 - Traffic Generators	No - small businesses typically do not have the attendance to qualify for this program; the TODS and Logo programs are possible programs for them.	The Traffic Generator rules allow for signing to be installed for a site (a scenic, historical, educational, cultural or recreational site) that generates large volumes of public visitors. This signing is intended as a benefit to the general public, aiding large volumes of people in finding a common destination, not as advertising for the site. Small businesses do not typically qualify for this program due to their small attendance figures.	Section 226.525.1 (3) RSMo requires MHTC to determine those sites and attractions for which directional and other official signs may be erected as permitted by Section 131 of Title 23, United States Code, using as a guide those publicly or privately owned natural wonders and scenic, historic, educational, cultural, or recreational sites which have been determined to be of general interest.

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CM	18 - Contractor Disqualification for Misconduct	No	These rules set forth the criteria disqualification, notification, length of disqualification, the effects of a determination to disqualify with respect to bidding or participating in any new commission contracts, reinstatement after being disqualified, and appealing a notice of disqualification. These contractors will have more than 100 employees; therefore, they would not meet the definition of a small business.	Section 227.030.2 RSMo authorizes MHTC to make all final decisions affecting the construction and maintenance work performed on state highways, to promulgate all rules it deems necessary for the proper management and conduct of such work, and to carry out the construction and maintenance of state highways in such manner as to be in the best interest and advantage of the people of the state.
CM	19 - Contractor Drug Testing Program	No	This rule provides drug testing program requirements for contractors' employees working on highway projects within the state of Missouri to ensure the safety of contractor and subcontractor employees, Department of Transportation employees and the traveling public. These contractors will have more than 100 employees; therefore, they would not meet the definition of a small business.	Section 227.030.2 RSMo authorizes MHTC to make all final decisions affecting the construction and maintenance work performed on state highways, to promulgate all rules it deems necessary for the proper management and conduct of such work, and to carry out the construction and maintenance of state highways in such manner as to be in the best interest and advantage of the people of the state.
MO/RM	20 - Financial Assistance (State Transportation Assistance Revolving Program)	No	These rules are for not-for-profits and/or public entities, and would not be included in this legislation's definition of a small business.	Section 226.191.3 RSMo requires MHTC by rule to establish the procedures, conditions, and repayment terms applicable to any loans or grants made under Section 226.191 from the State Transportation Assistance Revolving Loan Fund.
RM	21 - Transportation Corporations	No	Authorizes transportation corporations, which are required by section 238.307.2 to be general, not-for-profit corporations, to enforce the collection of tolls.	Section 238.347 RSMo authorizes MHTC to adopt reasonable rule relating to Transportation Corporations. Also, Section 238.362 RSMo provides that MHTC may authorize a Transportation Corporation to enforce the collection of tolls imposed on a Transportation Corporation's facility and that such enforcement authorization shall be made pursuant to MHTC administrative rules.
TR	22 - Tourist Oriented Directional Signing (TODS) Program	Yes - may allow small businesses to participate and display their business on state right of way.	This program is intended to help motorist to identify tourist oriented sites that are located on conventional two lane roadways. The intent is to improve the safety of the motorist by making decisions quicker and easier to make. By allowing businesses who offer these services to participate they are able to display their site name on state right of way, which would be illegal to do if it were not for the TODS program.	The Code of State Regulations is necessary for this program as it is required by the Federal Highway Administration for any state who adopts the TODS program to formally adopt a set of rules that are in compliance with the MUTCD.
CM	23 - Technician Certification Program	Yes	This program exists in order to ensure that individuals performing materials testing are qualified.	This is a federal requirement under 23 CFR part 367, for acceptance of material incorporated into federal funded transportation projects.

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DE	24 - Design-Build Project Contracts	No	This chapter describes the commission's policies and procedures for approving design-build projects financed under Title 23, United States Code by use of state funds, by use of funds of local public agencies or counties, or any combination of fund sources. The contracting procedures of this chapter apply to all design-build projects undertaken by the commission. All acquisitions under these rules shall be competitive acquisitions. These projects will involve businesses that have more than 100 employees; therefore, they would not meet the definition of a small business.	Section 227.107.16 RSMo requires MHTC to promulgate administrative rules to implement the design-build provisions in Section 227.107 or to secure federal funds.
MC	25 - Motor Carrier Operations	Yes	Describes the requirements relating to applications for skill performance evaluation certificates for certain individuals who cannot satisfy the physical qualifications generally required by federal regulations to drive commercial motor vehicles, provides the requirements of obtaining oversize/overweight permits, provides information related to intrastate household goods movers to the consumer.	Allows for a medical waiver for commercial motor vehicle drivers with certain medical conditions to be approved to continue to drive, justifies the issuance of oversize/overweight permits to promote the safety of the traveling public, protects the infrastructure, and ensures the guidelines set by the Federal Highway Administration, provides information to customers on their rights and obligations as consumers as well as providing protection when utilizing intrastate household goods carriers.
CM	26 - Arbitration and Mediation of Construction Disputes	No	These rules provide for the selection of arbitrators in arbitration proceedings and the mediation process to settle contract disputes.	Section 226.096.1 RSMo requires MHTC to promulgate administrative rules to establish a method to appoint arbitrators and allow the mediation of claims upon agreement of MHTC and the contractor in a dispute on a MHTC state highway construction contract.

**Title 7 - Missouri Department of Transportation
Division 265 - Motor Carrier and Railroad Safety**

Division	Chapter / Rule Name	Affects Small Business (Yes/No)	Public Purpose / Interest in Adopting Administrative Rule	Justify Rule's Continued Existence
MO	9 - Fixed Guideway Transit Systems	No	The intent of these rules is to ensure public protection and safety of light rail systems operated in Missouri. Currently only applies to St. Louis, but other cities are considering such systems.	Chapter 389 RSMo and Section 650 of Title 49 of the Code of Federal Regulations require the state to have in place administrative rules in regulation in light rail.
MC	10 - Motor Carrier Operations	Yes	The intent of this rule is public protection ensuring motor carriers are safe, properly insured have adequate display of compliance and provides guidance for rate filing.	Provides enforcement with proper identification of motor carriers engaged in intrastate and interstate commerce, conforms with the requirements of section 390.21 of Title 49 CFR.

**Title 4 - Economic Development
Division 265 - Motor Carrier and Railroad Safety**

Division	Chapter / Rule Name	Affects Small Business (Yes/No)	Public Purpose / Interest in Adopting Administrative Rule	Justify Rule's Continued Existence
CC	2 - Practice and Procedure	Yes	To apprise the public, primarily motor carriers that are subject to regulation by state and federal motor carrier safety and licensing laws of the procedures for: (1) obtaining information from MHTC regarding any proceedings, documents, and other information that is subject to disclosure under the state Sunshine Law; (2) procedures for applying to MHTC to submit name and address changes for purposes of updating required licenses to transport persons or property; (3) the extent of federal pre-emption on state authority relating to the regulation of prices, routes or services provided by motor carriers (except household goods); (4) applications for temporary operating authority for motor carriers in intrastate commerce, including the necessary information such as insurance, etc., that needs to be included in such application (including a copy of the application form); (5) motor carriers to be registered and licensed under the Single State Registration System required under federal law; (6) application for a motor carrier to be self-insured as well as the information that should be submitted under such application; (7) the suspension or revocation of operating authority issued by MHTC; and (8) etc.	As the state's motor carrier laws are still in effect and enforceable, it is crucial that the procedures for application for operating authority, obtaining information and the other procedures set forth in this administrative rule continue in effect in order to provide an orderly and effective manner for motor carriers to submit their documentation and obtain information in order to conduct their business in compliance with state and federal laws.
N/A	4 - Standards of Conduct (rescinded)	N/A		
MC	6 - Transportation	Yes	Promotes public safety and welfare and to properly cope with an emergency, attack or disaster of wide proportions.	Ensures compliance with the state Civil Defense Act, Chapter 44 RSMo.
MO	8 - Railroads and Street Railroads	No	Promotes public safety and welfare in relation to all railroads operating in the state or owning track in the state. Addresses responsibilities of railroads to maintain crossing surfaces, equipment at crossings, and posting of signs in order to protect the public's safety and convenience.	Ensures railroads remain in compliance with the state's requirements in relation to safety and maintenance of their infrastructure and equipment, Chapter 389 RSMo.
MC	12 - Motor Carriers	Yes	Prescribes uniform systems of accounts for motor carriers engaged in the transportation of household goods and passengers.	Authorizes the review of carriers' documents and records in relationship to justification for rate adjustments. Provides protection against anti-trust actions.
MC	14 - Training	No	This rule describes the training requirements for the division's Transportation Enforcement Investigator position, to prepare those personnel for their actual duties of employment.	The Motor Carrier Safety Assistance Program (MCSAP) is a grant-in-aid condition that states must comply with in order to receive federal funding. The FMCSA is the agency charged with implementing the MCSAP grant. In order to fulfill requirements for participation in the grant division investigators must be "...qualified... to enforce the FMCSR's..." Refer to Title 49 CFR Part 350.201(d).

Title 12 - Department of Revenue
Division 20 - Highway Reciprocity Commission

Division	Chapter / Rule Name	Affects Small Business (Yes/No)	Public Purpose / Interest in Adopting Administrative Rule	Justify Rule's Continued Existence
MC	1 - Organization and Description	No	This rule describes the organization and duties of the Highway Reciprocity Commission under the Department of Revenue.	Rescinded 2/29/08
MC	2 - Reciprocity in Registration With Other States - Registration of Trailers	Yes	This rule allowed the Highway Reciprocity Commission under the Department of Revenue the authority to enter into reciprocal agreements with other states. This rule sets forth the reciprocal guidelines for trailers properly licensed in other jurisdictions to operate in the State of Missouri.	This rule related to the registration requirements of the International Registration Plan no longer requires the registration of trailers. However, as a service to the customer, we still register them if requested so the customer does not have to register tractors through our office and trailers through a branch office. Moved to 7 CSR 10
MC	4 - Multistate Agreement	No	This rule relates to a reciprocal agreement with other states for interstate commercial use of highways.	Rescinded 2/29/08
MC	5 - Investigation	Yes	Authorizes the Highway Reciprocity Commission to require reports from commercial motor vehicle owners to assist in the performance of audits.	This rule defines the motor carriers duties of providing information for audits and the procedures normally used for underpayment or overpayment of fees associated with licensing as defined by the International Registration Plan. This rule is in the proposed amendment process to transfer the duties to the Missouri Highways and Transportation Commission. Moved to 7 CSR 10
MC	6 - Trip Permits	Yes	Authorizes the Highway Reciprocity Commission to issue trip permits in lieu of full or apportioned registration, fuel license, and operating authority, the ways of obtaining permits, fees to be paid in advance and the use of private contractors to assist in issuing the permits.	This rule is in the proposed amendment process to transfer the duties to the Missouri Highways and Transportation Commission. The rule defines the duties of issuing the permits as well as the requirements to be met by the private contractors allowed to issue these permits. Moved to 7 CSR 10
MC	7 - International Fuel Tax Agreement	Yes	Describes the requirements related to the International Fuel Tax Agreement, which Missouri is a member. It allows a licensee to report and to pay motor fuel use taxes to the base jurisdiction and details the responsibilities of the motor carriers and the authorized agency.	The Agreement implements core provisions that as between state constitute and interstate compact approved by Congress in the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. This rule is in the proposed amendment process to transfer to the Missouri Highways and Transportation Commission. Moved to 7 CSR 10

**Title 11 - Department of Public Safety
Division 60 - Division of Highway Safety**

Division	Chapter / Rule Name	Affects Small Business (Yes/No)	Public Purpose / Interest in Adopting Administrative Rule	Justify Rule's Continued Existence
HS	1 - Motorcycle Safety Education Program	Yes	Missouri Revised Statutes Chapter 302 Sections 302.133 through 302.138 establish the "Motorcycle Safety Trust Fund", the Motorcycle safety program advisory committee, and directions for establishing the Missouri Motorcycle Safety Program. The "Motorcycle Safety Trust Fund" is required to be used for the purpose of conducting motorcycle rider training and instructor training courses. The program may include, but is not limited to, components relating to the effect of alcohol and drugs on motorcycle operation, public awareness of motorcycles on the highways, driver improvement for motorcyclists, motorcycle operator licensing improvement, program promotion, and other motorcycle safety efforts. Missouri Code of State Regulations 11 CSR 60-1.010 through 11 CSR 60-1.110 provide requirements for administering the Missouri Motorcycle Safety Program. The Missouri Motorcycle Program is managed by the appointed State Coordinator at the University of Central Missouri, Missouri Safety Center. The program is responsible for training over 4,000 motorcyclists and over 20 instructors each year.	Missouri Revised Statutes Chapter 302 Sections 302.133 through 302.138. Code of State Regulations 7 CSR 60-1.010 through 7 CSR 60-1.110
HS	2 - Breath Alcohol Ignition Interlock Device Certification and Operational Requirements	Yes	Missouri Revised Statutes Chapter 577 Section 577.608 requires that the Missouri Department of Transportation Highway Safety Division shall certify or cause to be certified ignition interlock devices required by sections 577.600 to 577.614 and publish a list of approved devices. The Division shall adopt guidelines for the proper use of the ignition interlock devices in full compliance with sections 577.600 to 577.614 of this act. The Division shall use information from an independent agency to certify ignition interlock devices on or off the premises of the manufacturer in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of interlock ignition devices. In certifying the devices, those which do not impede the safe operation of the vehicle and which have the fewest opportunities to be bypassed so as to render the provisions of sections 577.600 to 577.614 of the act ineffective shall be certified. No model of ignition interlock device shall be certified unless it meets the accuracy requirements specified by the guidelines of MoDOT Division of Highway Safety. Before certifying any device, the Division shall consult with the National Highway Traffic Safety Administration regarding the use of ignition interlock devices.	Missouri Revised Statutes Chapter 577 Section 577.608 and Executive Order 03-05 issued on February 5, 2003. The administrative rules outline standards and specifications for the ignition interlock program in the state to ensure the reliability of devices and increase public safety.