Under 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."

Entirely new rules are printed without any special symbology under the heading of the 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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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.

An 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.

If 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*.

An 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.

If 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 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 6—Establishment of New Institutions and Instructional Sites

PROPOSED AMENDMENT

6 CSR 10-6.010 Standards for Establishing Community Junior College Districts. The commissioner is amending sections (1) and (2).

PURPOSE: This amendment is intended to update the standards used by the Coordinating Board in reviewing petitions to establish new public community college districts. The amendment updates the bases for enrollment projections, allows greater flexibility in evaluating alternative service delivery options, and updates assessed valuation criteria for consistency with current statutory requirements.

(1) Standards.

(A) Standard 1. Initiative to establish a district must come from the area to be served. Local initiative to establish a community *[junior]* college district is demonstrated by submitting a petition to the coordinating board in accordance with the provisions of section 178.800.1, RSMo. The petition and the response to Standard 1 should include the official name of the proposed district. The official name of the district must adhere to the following format: "The Junior College District of _____, Missouri."

(B) Standard 2. Need must be clearly established in terms of the total area to be served, including educational interest of citizens, manpower needs of local industry, business, government and other consumers, and compatibility with the statewide policy goals established by the Coordinating Board for Higher Education *[(CBHE)]*. Clear and convincing evidence of need for the proposed district shall be demonstrated by providing information which will be generated by a survey, the form and method for administration of the survey to be determined by the *[CBHE]* **Coordinating Board for Higher Education**. The cost of the administration of the survey shall be borne by the organizing body for the proposed district. The information provided by the survey will include, but not be limited to, the specific educational services needed by employers, high school students and representatives of the general public which can be provided by a community *[junior]* college. So that the respondents to the survey can make an informed judgement relating to the establishment of a community *[junior]* college, information will be provided to each respondent regarding the probable tax levy for the first five (5) years of operation of the community *[junior]* college, probable capital expenditures required during the first ten (10) years of operation and probable location of the initial site.

1. Supplemental to the results of the survey, additional demographic information will be provided to the coordinating board to further substantiate the need for a community *[junior]* college. The format and method for providing this information will be determined by the coordinating board.

2. If the board determines a bona fide need exists after examining the information regarding the establishment of a community *[junior]* college, the board will conduct a review to ascertain if alternative agencies *[within or outside the proposed district]* can provide the identified services. *[If the review establishes that the need can be met by these alternative agencies, approval for the establishment of a community junior college will be denied.]*

(D) Standard 4. There shall be substantive evidence to project an enrollment of at least one thousand *[two hundred fifty (1250)]* **(1,000)** full-time-equivalent *[(FTG)]* **(FTE)** students within five (5) years of the initial operation of the new district. Enrollment may be projected for an FTE greater than one thousand **(1,000).** *[two hundred fifty (1250) and t]***T**he basis for projecting enrollment is as follows:

[1. FTE enrollment, after five (5) years of operation, shall be estimated on the basis of—

A. 1.5%]

1. 2.5% of the proposed district population**.** *[with a minimum of 1250 FTE, up to and including 100,000 population;*

B. 1% of the proposed district population, but not less than 1500 FTE from 100,001 population to 200,000;

C. .9%, but not less than 2000 FTE, from 200,001–300,000;

D. .8%, but not less than 2700 FTE, from 300,001–400,000;

E. .7%, but not less than 3200 FTE, from 400,001–500,000;

F. .6%, but not less than 3500 FTE, from 500,001–600,000;

G. .5%, but not less than 3600 FTE, for populations over 600,000;]

*[2.]***A.** The proposed district **base** population shall be *[determined as follows:]*

*[A. T]***t**he populations of the component public school districts as determined from the School District Population Summary Tables prepared after the most recently completed decennial census *[will be the base population]*;

B. The school district base populations will be incremented by the estimated growth rates for the counties in which the districts are headquartered through the most recent year for which county population estimates are available from the State Census Data Center; and

C. The district populations derived in subparagraph (1)(D)*[2.]***1.**B. will be projected for future years using the average annual growth between the latest decennial census and the latest county population estimates for the counties in which the districts are headquartered; *[and]*

2. Projections of FTE enrollment based on local demand for—

A. Literacy and adult basic education programs;

B. Customized and contract training for area employers;

C. Other noncredit or nondegree types of instructional services; and

3. *[In addition to the enrollment projection method previously described, the average daily attendance of students in grades ten through twelve (10–12) in the high schools within the proposed district must be at least sixteen hundred (1600).]* **Projections of FTE enrollment based on documented demand for educational services to be offered by the proposed institution from areas within the proposed district's service area that are not currently within an existing community college district.**

(E) Standard 5. The financial viability of the proposed district is dependent on several interrelated factors involving the estimation of both revenue and operating costs. The basis for computing operating costs is given in this subsection. The relevant revenue factors are assessed valuation of the proposed district, local tax levy and local tax income generated from the assessed valuation; student fee level and student fee income; state aid income; and other income. The local portion of revenue consists of the income generated by the tax levy on the assessed valuation of taxable, tangible property in the proposed district. The assessed valuation of the proposed district is a critical factor. The assessed valuation of the proposed district shall provide adequate financial support to the proposed district as determined by the coordinating board. The revenue derived from student fees is dependent upon the FTE enrollment and the fee amount charged to each student. Methods for computing these factors as well as state aid income and other income are given as follows:

1. Operating costs. Estimations of operating costs are for education and general and do not include capital expenditures or costs for auxiliary purposes. The estimated operating costs shall be based upon a student faculty ratio of twenty to one (20:1) and faculty compensation which is sufficient to attract and retain qualified and competent faculty;

2. Student fee income. This factor is determined by computing the average percent of total income, less auxiliary and restricted, provided by student fees at existing community *[junior]* college districts, established under the provisions of sections 178.770–178.890, RSMo for the most recent fiscal year for which data are available preceding the new district proposal. If the proposed district has a population of two hundred thousand (200,000) or fewer, the average for existing districts with population of two hundred thousand (200,000) or fewer shall be used. If the proposed district has a population of over two hundred thousand (200,000), the average for all existing districts shall be used. This factor shall be computed by the coordinating board staff;

3. State aid income. This factor is determined by applying the current method of determining state aid to the five (5)-year projected size and program diversity of the proposed community *[junior]* college. This factor shall be computed by the coordinating board staff;

4. Other income. An amount equal to two percent (2%) of the estimated cost of operations shall be allowed as estimation of other income for districts with populations of two hundred thousand (200,000) or less and an allowance of one-half percent (.5%) for proposed districts of over two hundred thousand (200,000) population. If the proposed new district feasibility study categorically demonstrates, in the judgement of the coordinating board, other reliable sources of income, the actual dollars so demonstrated may be added to the two percent (2%) or one-half percent (.5%) allowance;

5. Local tax levy. The tax levy per one hundred dollars ($100) assessed valuation, for purposes of computing the adequacy of the assessed valuation to support the proposed district, shall be the maximum levy allowed, without voter approval, by section 178.870, RSMo, as follows:

LEVY	ASSESSED VALUATION
$ .10	*[$1,000,000,000]* **$1.5 Billion** plus
.20	*[$500 Million but less than $1 Billion]* **$750 Million but less than $1.5 Billion**
.30	*[$250 Million but less than $500 Million]* **$500 Million but less than $750 Million**
.40	Less than *[$250,000,000]* **$500 Million**; and

6. Local tax income generated from assessed valuation. The purpose of establishing an assessed valuation requirement for a proposed new district is to assure that the valuation is sufficient to generate adequate funds to provide a viable college fiscal operation and education of acceptable quality. That adequacy is assessed by formulae which produce either an assessed valuation from a known amount of needed revenue or the amount of revenue generated from a known assessed valuation. The steps and formulae of the computation are-

A. Estimated operating costs less estimated student fee income, less estimated state aid, less estimation of other income produces a balance which is the estimated operating cost to be provided through local tax revenue;

B. The amount of assessed valuation required to generate the needed tax revenue is computed with the following formula:

$$(a)(X/100) = y$$

in which: a = the amount of the tax levy per $100 of assessed valuation;
X = the assessed valuation required to generate needed tax revenue; and
y = the tax revenue to be generated.

In this formula, X is the unknown. If the computation reveals the value of X to be equal to or less than the actual assessed valuation of proposed district, then the assessed valuation shall be judged to be adequate; and

C. The amount of tax revenue, which would be generated by the assessed valuation of the proposed district is computed as follows:

$$(a)(X/100) = y$$

in which: a = the amount of the tax levy per $100 of assessed valuation;
X = the actual valuation of the proposed district; and
y = the tax revenue generated.

In this formula, y is the unknown. If the computation reveals the value of y to be as great or greater than the balance of income to be provided through local tax revenue, then the assessed valuation of the proposed district shall be judged to be adequate.

(2) Election. If the coordinating board determines that the proposed district meets the standards *[established by the board,]* **set forth in section (1) of this rule,** the board shall order an election in accordance with the provisions of sections 178.800 and 178,820, RSMo.

*AUTHORITY: sections 178.770–178.820, RSMo [1986] **2000**. Original rule filed March 13, 1985, effective July 1, 1985. Rescinded and readopted: Filed July 15, 1987, effective Oct. 12, 1987. Amended: Filed April 14, 2003.*

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 opposition to this proposed amendment with the Commissioner of Higher Education, Missouri Department of Higher Education, 3515 Amazonas Drive, Jefferson City, MO 65109. 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 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.010 Public Information. The commission proposes to amend sections (2) and (3).

PURPOSE: This amendment adds the term "outdoor advertising" and substitutes the term "district" with the correct geographical term "area" or "outdoor advertising area" and provides the new office address for Areas No. 1 and No. 2.

(2) Organization. The Missouri Highways and Transportation Commission controls and acts by and through the Missouri Department of Transportation which is directed by the director of transportation. For purposes of this rule, the state is geographically divided into seven (7) areas. Each **outdoor advertising** area office is headed by a**n outdoor advertising area** permit specialist who is responsible to the outdoor advertising manager for supervising all outdoor advertising activities within that area. Counties in each area are as follows: Area No. 1 includes: Barton, Bates, Cass, Cedar, Clay, Dade, Henry, Jackson, Johnson*[.]***,** Lafayette, Platte, St. Clair, Vernon; Area No. 2 includes: Adair, Audrain, Chariton, Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan; Area No. 3 includes: Benton, Boone, Callaway, Camden, Cole, Cooper, Gasconade, Hickory, Howard, Maries, Miller, Moniteau, Morgan, Osage, Pettis, Phelps, Pulaski, Saline; Area No. 4 includes: City of St. Louis, Crawford, Franklin, Jefferson, Lincoln, Montgomery, Perry, Ste. Genevieve, St. Charles, St. Francois, St. Louis, Warren, Washington; Area No. 5 includes: Barry, Christian, Dallas, Douglas, Greene, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Webster, Wright; Area No. 6 includes: Bollinger, Butler, Cape Girardeau, Carter, Dent, Dunklin, Howell, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Reynold, Ripley, Scott, Shannon, Stoddard, Texas, Wayne; Area No. 7 includes: Andrew, Atchison, Buchanan, Caldwell, Carroll, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Nodaway, Ray and Worth.

(3) How to Obtain Information and Materials. Information and materials regarding outdoor advertising control, including copies of sections 226.500–226.600, RSMo, administrative rules, application forms, maps of the interstate and primary highway systems, and *[district]* **area** maps showing the location of the *[district]* **outdoor advertising area** offices and the counties within each *[district]* **outdoor advertising area**, may be obtained in person, **or** by writing or *[by]* telephoning the *[district engineer]* **outdoor advertising area permit specialist**, Missouri Department of Transportation: Area No. 1, *[5117 East 31st Street, Kansas City, MO 64128, (816) 889-6353]* **600 NE Colbern Road—PO Box 648002, Lee's Summit, MO 64086, (816) 622-6353**; Area No. 2, *[U.S. Route 63-P.O. Box 8, Macon, MO 63552, (660) 385-3176]* **1511 Missouri Boulevard, PO Box 718, Jefferson City, MO 65102, (573) 751-7187**; Area No. 3, 1511 Missouri Boulevard, P*[.]*O*[.]* Box 718, Jefferson City, MO 65102, (573) 751-9289; Area No. 4, 1590 Woodlake Drive, Chesterfield, MO 63017, (314) 340-4327; Area No. 5, 3025 East Kearney—P*[.]*O*[.]* Box 868, Springfield, MO 65801, (417) 895-7648; Area No. 6, 2910 Barron Road, Poplar Bluff, MO 63901, (573) 840-9292; Area No. 7, U.S. Route 63—P*[.]*O*[.]* Box 8, Macon, MO 63552, (660) 385-826*[7]***4**.

*AUTHORITY: section 226.530, RSMo [Supp. 1998] **2000 and 226.500–226.600, RSMo 2000 and Supp. 2002**. Original rule filed April 11, 1972, effective April 30, 1972. Rescinded and readopted: Filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003.*

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.015 Definitions. The commission proposes to amend previous sections (1), (2), (16), (25) and (26), delete previous sections (3), (9), (10), (11) and (23), and adds new sections (1), (2), (5), (10), (21), (35) and (37).

PURPOSE: This amendment provides additional definitions and clarifies other definitions of terms used throughout this chapter, in addition to those terms defined in section 226.510, RSMo.

(1) Animated means the display image(s) or message(s) move or appear to have motion.

(2) Area permit specialist means any one (1) of the Missouri Department of Transportation outdoor advertising area permit specialists.

[(1)] **(3)** Back-to-back sign, double-faced sign or V-type sign is a sign with two (2) sides *[or outdoor advertising faces]* **each of which can be read from opposite directions of the same roadway**, with not more than two (2) *[displays]* **faces** to each side**,** *[or faces, with]* **and** not more than two (2) display*[s]* **areas** to each *[side or]* facing*[, which are]***. The faces must be** physically contiguous, or connected by the same structure or cross-bracing or located not more

than fifteen feet (15') apart at their nearest point. *[Each face or]* **The total display area for each** side *[may be as large as]* **must not exceed** eight hundred (800) square feet *[in area]*.

[(2)] **(4)** Changed conditions means a change in facts or local ordinance, such as but not limited to, discontinuance of a commercial or industrial activity, decrease in the limits of an urban area, reclassification of a secondary highway to interstate or federal aid primary or National Highway System (NHS) highway status, upgrading of an urban primary highway to freeway status or amendment of a comprehensive local zoning ordinance from commercial to residential or the like.

[(3) Director of Transportation means the director of transportation of the Missouri Department of Transportation appointed by the Missouri Highways and Transportation Commission under section 226.040, RSMo or the director of transportation's authorized representative.]

(5) Chief engineer means the chief engineer of the Missouri Department of Transportation or his or her designated representative.

[(4)] **(6)** Commercial or industrial activities are defined in section 226.540(5), RSMo.

[(5)] **(7)** Commission means the Missouri Highways and Transportation Commission.

[(6)] **(8)** Department means the Missouri Department of Transportation.

[(7)] **(9)** Directional and other official signs means only official signs and notices, public utility signs, service club and religious notices, public service signs and directional signs.

(10) Director of transportation means the director of transportation of the Missouri Department of Transportation, appointed by the Missouri Highways and Transportation Commission under section 226.040, RSMo, or the director of transportation's authorized representative.

[(8)] **(11)** Display means a single graphic design which advertises goods, services or businesses.

[(9) District engineer means any one (1) of the ten (10) Missouri Department of Transportation district engineer or the district engineer's authorized representatives.

(10) Division means the right-of-way division unless otherwise specified.

(11) Double-stacked means sign faces placed one above another on a single structure. This definition shall not include faces or signs maintained in a side-by-side configuration.]

(16) Highway means any existing highway or a **roadway** project for which the **Missouri Highways and Transportation Commission** *[commission's right-of-way division]* has authorized the purchase of right-of-way.

(21) Local means a specific district, county, township, or municipality responsible for issuing business licenses so that the owner or their assigns can engage in lawful sales or service.

[(21)] **(22)** Maintain means allow to exist.

[(22)] **(23)** Main-traveled way means the through traffic lanes of the highway, exclusive of frontage roads, outer roads, auxiliary lanes, ramps and all shoulders.

[(23) Modify applies to sign structures existing prior to August 28, 1999, which complied with the requirements with sizing, lighting, spacing, location, permit and all other requirements of sections 226.500–226.600, RSMo as provided by those sections at the erection date of the sign and not deemed nonconforming for failure to comply with the provisions of this chapter until such sign's structure is modified, repaired, replaced or rebuilt. After which, the provisions of 7 CSR 10-6.060 apply to signs of this category. Modify is altering, enlarging or extending the facing, raising or lowering the structure itself, the addition of lights or lighting, replacing or changing poles, bracing, supports, or type of materials.]

(25) On-premises sign is limited to outdoor advertising which advertises—the sale or lease of the property upon which it is located, the name of the establishment or activity located upon the premises upon which it is located, or the principal **or accessory** products or services offered by the establishment or activity upon the premises upon which it is located.

(26) Outdoor advertising permit **informal** review committee consists of the *[assistant chief engineer-operations, assistant chief engineer-design, and the division director of the right-of-way division]* **director of operations, director of project development, and the right-of-way director** or their designees.

(35) Stacked sign means a sign with one or more displays placed one above another on a single structure.

[(35)] **(36)** State means the state of Missouri.

(37) Temporary cut-outs or extensions are those attachments or additions to the permanent display area of the outdoor advertising structure. A cut-out or extension may be added to an outdoor advertising structure for a period of one temporary display contract with a maximum term of no more than three (3) years. The outdoor advertising structure must not have another cut-out or extension for a period of six (6) months after the cut-out or extension is removed.

[(36)] **(38)** Unlawful signs or unlawful outdoor advertising are those identified as unlawful in sections 226.580.1 and 226.580.2, RSMo and 7 CSR 10-6.080(2), and nonconforming signs which have failed to comply with the requirements of 7 CSR 10-6.060(3).

[(37)] **(39)** Unzoned area means an area where there is no comprehensive zoning regulation. It does not include areas which have rural zoning classifications, land uses established by zoning variances or special exceptions under comprehensive local zoning ordinances.

[(38)] **(40)** Unzoned commercial or industrial areas or unzoned commercial or industrial land is defined by sections 226.540(4) and 226.540(5), RSMo and 7 CSR 10-6.040(2)(B).

[(39)] **(41)** Urban area is defined in section 226.510(6), RSMo.

[(40)] **(42)** Visible means capable of being seen, whether or not legible, without visual aid by a person of normal visual acuity. A person of normal visual acuity is any person licensed by Missouri to operate a motor vehicle upon the highways of this state.

[(41)] **(43)** Zoned commercial or industrial areas or areas which are zoned industrial, commercial or the like per section 226.540(5), RSMo and which meet the requirements of 7 CSR 10-6.040(2)(C).

*AUTHORITY: sections 226.150, [RSMo 1994] and 226.530, RSMo [Supp. 1998] **2000 and 226.500–226.600, RSMo 2000 and Supp. 2002**. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended:*

Filed Feb. 4, 1991, effective Aug. 30, 1991. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003.

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.020 Directional and Other Official Signs. The commission proposes to amend subsections (5)(A), (7)(D) and amend paragraphs (7)(F)1. and (7)(F)2.

PURPOSE: This amendment clarifies the standards for service clubs and religious notices and provides for the approval of the selection, erection and maintenance of directional signs by the right-of-way director or designee and that requests for public hearing regarding the directional signs must be directed to the right-of-way director or designee.

(5) Standards for Service Club and Religious Notices.

(A) Size. Any number of displays or emblems may be secured to a single structure. Each display or emblem shall not exceed eight (8) square feet in area. **Note: For multiple emblem signs to be considered fee exempt, the total outdoor advertising display area on each side must be less than seventy-six (76) square feet.**

(7) Standards for Directional Signs. The following standards apply only to directional signs:

(D) Spacing. Each **proposed** location *[of]* **for** a directional sign must be approved by the *[district engineer]* **right-of-way director or designee** prior to its erection. No directional sign may be located within two thousand feet (2,000') of an interchange or intersection at grade along the interstate system or freeway primary highway (measured along the interstate or freeway primary highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way). No directional sign may be located within two thousand feet (2,000') of a rest area, parkland or scenic area; no two (2) directional signs facing the same direction of travel shall be spaced less than one (1) mile apart. Not more than three (3) directional signs facing the same direction of travel may be erected along a single route approaching the activity or attraction. Signs located adjacent to the interstate system shall be within seventy-five (75) air miles of the activity or attraction. Signs located adjacent to the primary system shall be within fifty (50) air miles of the activity or attraction;

(F) Selection Method and Criteria.

1. Criteria. Activities and attractions qualifying for directional signing shall be limited to—public places owned or operated by federal, state or local governments or their agencies; publicly- or privately-owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation. Privately-owned activities or attractions must be deemed by the commission to be nationally or regionally known and of outstanding interest to the traveling public. Upon request, the applicant for a directional sign permit shall submit sufficient evidence to the *[district engineer]* **right-of-way director or designee** for the commission to determine whether or not the activity or attraction is nationally or regionally known and of outstanding interest to the traveling public.

2. Selection. The commission shall determine those public and private activities and attractions which qualify for directional signing. After filing an application for a directional sign permit, the applicant may petition the commission to determine whether or not a specific public or private activity or attraction is eligible for directional signing. The petition may be in letter form and shall include: a statement by the owner of the activity or attraction describing the activity or attraction and evidence that the activity or attraction is nationally or regionally known and is of outstanding interest to the traveling public. In the case of any publicly-owned activity or attraction, the petition must also be accompanied by the written consent or approval of the federal, state or local political subdivision having legal authority or control over the activity or attraction where the authority is not the applicant requesting that the activity or attraction be designated as eligible for directional signing. The commission may grant the applicant, upon request, a public hearing to aid the commission in reaching a decision of whether or not the activity or attraction qualifies for directional signing. This hearing would be informal and would not be subject to the procedural requirements of Chapter 536, RSMo. In exceptional cases, the commission may require review and concurrence by the secretary of transportation before reaching a decision. Petitions and requests for public hearing must be in writing and addressed to the *[district engineer]* **right-of-way director or designee** for the county in which the activity or attraction is located (see 7 CSR 10-6.010).

AUTHORITY: sections 226.150 and 226.530, RSMo [1986] ***2000 and 226.500–226.600, RSMo 2000 and Supp. 2002****. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003.*

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.030 On-Premises Signs. The commission proposes to amend sections (1) and (3) and subsection (2)(C), and add new subsections (2)(H) and (2)(I).

PURPOSE: This amendment corrects the definition reference in section (1), provides criteria for changing from on-premises advertising to off-premises advertising and the cessation or termination of on-premises activity.

(1) Definitions (see 7 CSR 10-6.015). In particular, see 7 CSR 10-6.015 *[(22) and]* (25) **and (28)** for definitions of on-premises sign and premises, respectively.

(2) Criteria.

(C) Spacing. There are no spacing limitations or limitations on the number of on-premises signs per *[each]* premises.

(H) Changing from On-Premises Advertising to Off-Premises Advertising.

1. An outdoor advertising sign may be converted from advertising on-premises goods and services to advertising off-premises goods and services so long as:

A. The sign meets all requirements of law for legal, conforming outdoor advertising signs in effect at the time the advertising changes from advertising on-premises activities to advertising off-premises activities; and

B. The sign owner receives an outdoor advertising permit issued by the commission prior to changing the advertising from advertising on-premises activities to advertising off-premises activities.

2. For purposes of outdoor advertising control, the date of erection of the outdoor advertising is the date the sign changes from advertising on-premises goods and services to off-premises goods and services.

(I) Cessation of On-Premises Activity. Upon the cessation or termination of a business activity within the regulated area along the primary and interstate highway system, the sign owner shall have thirty (30) days to remove on-premises advertising. After thirty (30) days, the sign will no longer qualify as an on-premises sign and will be subject to the same conditions and requirements as off-premises outdoor advertising signs. The cessation or termination of a business activity does not constitute a changed condition so as to render an on-premises sign a nonconforming outdoor advertising sign.

(3) Permits. There *[is]* **are** no state permit requirements **for on-premises advertising**, sections 226.530 and 226.550, RSMo.

*AUTHORITY: sections 226.150 and 226.530, RSMo [1986] **2000 and 226.500–226.600, RSMo 2000 and Supp. 2002**. Original rule filed Feb. 1, 1973, effective March 2, 1973. Amended: Filed Dec. 20, 1973, effective Jan. 30, 1974. Amended: Filed Sept. 19, 1974, effective Oct. 19, 1974. Rescinded and readopted: Filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003.*

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.040 Outdoor Advertising in Zoned and Unzoned Commercial and Industrial Areas. The commission proposes to amend sections (2), (3), (4) and (6), and add paragraph (2)(A)4., and subsections (6)(E), (6)(F) and (6)(G).

PURPOSE: This amendment provides additional criteria for determination of zoned and unzoned commercial and industrial areas, revises the primary use test with regard to hours an owner or employee must be on the premises, and clarifies the standards for outdoor advertising signs, including multiple face structures and projected image displays.

(2) Criteria for Determination of Zoned and Unzoned Commercial and Industrial Areas.

(A) Zoned Commercial and Industrial Areas. The following does not constitute zoned commercial or industrial area:

1. An area or district which has been spot zoned or strip zoned for outdoor advertising;

2. An area or district which merely allows commercial or industrial activities as well as outdoor advertising as an incident to the primary land use which is other than a zoned commercial or industrial area. Examples are: agricultural, rural, unclassified, greenbelt, buffer zoning or other similar classifications which may allow specified commercial or industrial land uses including outdoor advertising; and residential and multi-family zoning classifications which may allow outdoor advertising and specified home occupations such as barber shops, beauty shops, kennels, repair shops or professional offices; *[and]*

3. An area or district which requires a special use permit, special zoning classification or variance as a condition to the use of the area for an activity generally considered industrial or commercial*[.]***; and**

4. An area that is not within seven hundred fifty feet (750') of one or more permanent commercial or industrial activities as defined in section 226.540(6), RSMo.

(B) Unzoned Commercial and Industrial Area. In order to qualify as an unzoned commercial or industrial area, the *[area]* **property on which the qualifying business is located** must satisfy the primary use test found in subsection (2)(C).

(C) Primary Use Test.

1. In General. In order for an area to qualify as an unzoned commercial or industrial area, the primary use or activity conducted *[in the area]* **on the property** must be of a type customarily and generally required by local comprehensive zoning authorities in Missouri to be restricted as a primary use to areas which are zoned industrial or commercial. The fact that an activity may be conducted for profit in the area is not determinative of whether or not an area is an unzoned commercial or industrial area. Activities incidental to the primary use of the *[area]* **property**, such as a kennel or repair shop in a building or on property which is used primarily as a residence, do not constitute commercial or industrial activities for the purpose of determining the primary use of an unzoned area even though income is derived from the activity. If, however, the activity is primary and local comprehensive zoning authorities in Missouri would customarily and generally require the use to be restricted to a commercial or industrial area, then the activity constitutes a commercial or industrial activity for purposes of determining the primary use of *[an area]* **the property** even though the owner or occupant of the land may also live on the property.

2. Visible. The purported commercial or industrial activity must be visible from the main-traveled way within the boundaries of that unzoned commercial or industrial area by a motorist of normal visual acuity traveling at the maximum posted speed limit on the main-traveled way of the highway. Visibility will be determined at the time of the field inspection by the department's authorized representative.

3. Recognizable. The purported commercial or industrial activity must be recognizable as a commercial or industrial enterprise as viewed from both directions of travel of the adjacent interstate or primary highway. In addition, the activity must comply with each of the following:

A. Structure and grounds requirements—

(I) Area. Any structure to be used as a business or office must have an enclosed area of two hundred (200) square feet or more;

(II) Foundation. Any structure to be used as a business or office must be affixed on a slab, piers or foundation;

(III) Access. Any structure to be used as a business or office must have approved access from a roadway and readily accessible by the motorist to a defined customer parking lot adjacent to business building;

(IV) Utilities. Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include: business telephone, electricity, water service and waste water disposal, all in compliance with appropriate local, state and county rules. Should a state, county or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the department's authorized representative;

(V) Identification. The purported enterprise must be identified as a commercial or industrial activity which may be accomplished by on-premises signing or outside visible display of product;

(VI) Use. Any structure to be used as a business or office must be used exclusively for the purported commercial or industrial activity; and

(VII) Limits. Limits of the business activity shall be in accordance with section 226.540(4), RSMo;

B. Activity requirements. In order to be considered a commercial or industrial activity for the purpose of outdoor advertising regulation, the following conditions must be met:

(I) *[Hours must be posted and staffed accordingly. Phone numbers, facsimile number or E-mail address for communication posted so that the public can contact the owner of the business activity or the designated employee(s) for an appointment at the business location]* **An owner or employee must be on the premises for at least twenty (20) hours per week and these hours must be posted on the premises**;

(II) The purported activity or enterprise shall maintain all *[necessary]* **local** business licenses, occupancy permits, sales tax and other records as may be required by applicable state, county or local law or ordinance;

(III) A sufficient inventory of products must be maintained for immediate sale or delivery to the consumer. If the product is a service, it must be available for purchase on the premises; and

(IV) The purported activity or enterprise must be in active operation a minimum of one hundred eighty (180) days prior to the issuance of any outdoor advertising permit. The one hundred eighty (180)-day time frame begins when the business activity is in compliance with *[commission]* **all** business requirements **as set forth in sections 226.500 to 226.600, RSMo and this rule**; and

C. Where a mobile home or recreational vehicle is used as a business or office, the following conditions and requirements also apply:

(I) Self-propelled vehicles will not quality for use as a business of office for the purpose of these rules:

(II) All wheels; axles and springs must be removed;

(III) The vehicle must be permanently secured on piers, pad or foundations;

(IV) The vehicle must be tied down in accordance with minimum code requirements. If no code, the vehicle must be affixed to piers, pad or foundation; and

(V) Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include; business telephone, electricity, water service and waste water disposal, all in compliance with appropriate local, state and county rules. Should a state, county or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the department's authorized representative.

(3) Standards for Allowed Signs.

(A) In General. Outdoor advertising shall be permitted only*[—]* **when the following criteria are met:**

1. **The outdoor advertising structure is** *[I]***i**n *[accordance]* **compliance** with the sizing, spacing, lighting and location requirements for outdoor advertising erected and maintained in zoned and unzoned commercial and industrial areas as authorized by section 226.540, RSMo;

2. **The outdoor advertising structure is** *[O]***o**n the same side of the *[interstate or federal aid freeway primary]* highway as the commercial or industrial activity;

3. **The outdoor advertising structure is** *[W]***w**ithin *[six]* **seven** hundred **fifty** feet *[(60')]* **(750')** of the commercial or industrial activity or from any commercial or industrial structure meeting the structure and grounds requirements of subparagraph (2)(C)3.A. of this rule; and

4. In accordance with department permit requirements (see 7 CSR 10-6.070).

(4) Multiple *[Sign]* **Face** Structures. A back-to-back sign, double-faced sign or V-type sign is a sign with two (2) sides or outdoor advertising faces owned by the same sign owner which are physically contiguous, or connected by the same structure or cross bracing or located not more than fifteen feet (15') apart at their nearest point. New *[double-]*stacked **structures**, as defined in 7 CSR 10-6.015*[(11)]***(35)**, *[structures]* are prohibited *[but such signs lawfully in existence on August 28, 1999, may be rebuilt, altered, or modified one time, whereupon such signs shall be deemed legal non-conforming]*. **Three (3) or four (4) face structures, with each face positioned to be read from a different direction along intersecting routes will be allowed provided the spacing requirements of fourteen hundred feet (1,400') are met along each route.** Each side or face of this multiple sign structure shall be considered as one (1) sign for the purpose of determining whether or not it complies with the sizing, lighting, spacing and location requirements of section 226.540, RSMo provided that **the total display area of** each *[face or]* side of a multiple sign structure is limited to a total **area** of eight hundred (800) square feet *[in area]*. The total **display** area of each side *[or face]* shall be measured by the smallest square, rectangle, triangle, circle or contiguous combination of shapes which will encompass the display(s) of each side *[or face]*.

(6) A permit may be granted for an automatic changeable *[facing]* **display or a projected image display** provided*[—]***:**

(C) The change of message must occur simultaneously for the entire sign face; *[and]*

(D) The *[application]* **outdoor advertising structure** meets all other *[permitting]* requirements **in sections 226.500 to 226.600, RSMo and this rule**. Any such sign shall be designed such that the sign will freeze in one position if a malfunction occurs*[.];*

(E) The image does not flash or flicker in accordance with section 226.540(1)(a), RSMo;

(F) The image is projected onto a securely fixed, substantial structure and in accordance with the provisions in sections 226.500 to 226.600, RSMo; and

(G) No projected image(s) or message(s) shall appear to move or be animated.

AUTHORITY: sections 226.150, [RSMo 1994] and 226.530, RSMo [Supp. 1998] 2000 and 226.500–226.600, RSMo 2000 and Supp. 2002. Original rule filed Feb. 6, 1974, effective March 8, 1974. Amended: Filed June 9, 1975, effective July 9, 1975. Rescinded and readopted: Filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed Feb. 4, 1991, effective Aug. 30, 1991. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003.

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.050 Outdoor Advertising Beyond Six Hundred Sixty Feet of the Right-of-Way. The commission proposes to amend section (2).

PURPOSE: This amendment clarifies the location where maps depicting urban areas are available for viewing.

(2) Determination of Urban Areas. The term urban area is defined by section 226.510(6), RSMo. *[That section also indicates how urban areas are determined.]* Maps *[of urban areas located within a department district are available for inspection at that area office]* **depicting urban areas may be viewed at the appropriate outdoor advertising area office** (see 7 CSR 10-6.010).

*AUTHORITY: sections 226.150[, RSMo 1994] and 226.530, RSMo [Supp. 1998] **2000** and **226.500–226.600, RSMo 2000 and Supp. 2002**. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003.*

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Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.060 Nonconforming Signs. The commission proposes to add paragraph (3)(A)2. and subsection (3)(H) and amend subsections (3)(C), (F) and (G).

PURPOSE: This amendment provides additional criteria for maintenance of nonconforming signs to include reference to on-premises signs. This amendment further provides information concerning notices to terminate nonconforming signs, and information concerning administrative hearings and requires permit holder to provide written notice prior to changing an outdoor advertising structure.

(3) Criteria for Maintenance of Nonconforming Signs. Reasonable maintenance and repair of nonconforming signs is permissible**,** however, violation of any one (1) or more of the following subsections (3)(A)–(E) of this rule disqualifies any sign from being maintained as a nonconforming sign and subjects it to removal by the commission without the payment of just compensation:

(A) Message Content. Changes of advertising message content are permissible subject to the following:

1. Landmark signs. In order to continue to qualify as a landmark sign after August 13, 1976, the sign's advertising message shall not be substantially changed, except that a change in mileage, address, routing, course or direction is permissible;

2. On-premises signs. Switching advertising from on-premises activities to off-premises activities does not constitute a changed condition so as to render the sign as nonconforming. A sign that switches from advertising on-premises goods and services to off-premises goods and services must meet all requirements of the law in effect at the time the advertising is changed from on-premises to off-premises activities.

(C) Size. The size or area of a sign shall not be increased after the date the sign becomes a nonconforming sign. A net decrease in the *[outside dimensions of the advertising copy portion]* **face** of the *[device]* **sign** will be permitted;

(F) Abandonment and Discontinuance. A nonconforming sign shall not be abandoned or discontinued after the date the sign becomes nonconforming. Abandonment or discontinuance occurs whenever—

1. The sign, for a continuous period of twelve (12) months or more, advertises services or products no longer available to the traveling public because the services or products have been discontinued or cannot be obtained at the destination or by the directions indicated on the sign; or

2. The sign, for a continuous period of twelve (12) months or longer, is maintained without an advertising message. The following are examples of signs maintained without an advertising message: A sign with a message which is partially obliterated so as not to identify a particular service or product, a sign which is blank or painted out, a sign structure with no face or a sign with a message consisting solely of the name of the sign owner; *[and]*

(G) Notice to Terminate Nonconforming Signs. When a sign is maintained in violation of any one (1) or more of subsections (3)(A)–(F), the *[district engineer]* **right-of-way director or designee** shall issue a notice to terminate nonconforming sign to the sign owner and the owner or occupant of the real property on which the sign is located. The notice to terminate the nonconforming sign shall identify the violation of the criteria for maintenance of the nonconforming sign and the available remedial action to correct the violation which may include removal of the sign. The notice to terminate the nonconforming sign shall also establish the length of time with a maximum time of sixty (60) days *[possible which is available for taking the remedial action or removing]* **for remedial action or removal of** the sign (if **a** remedial action other than removal of the sign is not available). The notice to terminate the nonconforming sign may designate a time of less than sixty (60) days for remedial action. Any time which is stated in a notice to terminate the nonconforming sign for taking remedial action shall not change the time period to request an administrative hearing. Any person given a notice to terminate the nonconforming sign by the department's *[district engineer]* **right-of-way director or designee** shall be entitled to an administrative hearing pursuant to the provisions of sections 536.067–536.090, RSMo by filing a *[timely]* written

request for hearing with the *[district engineer who issued the notice to terminate the nonconforming sign at the address shown on the notice to terminate the nonconforming sign]* **Secretary of the Missouri Highways and Transportation Commission, PO Box 270, Jefferson City, MO 65102**. The request for hearing must be received by the *[district engineer]* **commission secretary** within thirty (30) days after receipt of the notice to terminate the nonconforming sign by the applicant. The request for hearing must be sufficient to identify the applicant requesting the hearing and each outdoor advertising structure for which a hearing is requested. The act of mailing the request for hearing does not constitute receipt by the *[district engineer]* **commission secretary**. No answer or other response by the commission is necessary. An applicant will not be entitled to a hearing if *[an]* **the** applicant fails to *[timely]* request a hearing **within thirty (30) days after receipt of the notice to terminate the nonconforming sign**. Upon receipt of a *[timely]* request for hearing, the *[department's district engineer]* **commission secretary** shall forward the request to the hearing examiner for the commission **and notify the outdoor advertising manager**. Hearings for notices to terminate the nonconforming sign shall be conducted pursuant to 7 CSR 10-6.090. **The permit for any nonconforming signs as defined in 7 CSR 10-6.060 shall be surrendered upon removal of the sign; and**

(H) All permit holders should contact the outdoor advertising area permit specialist for the outdoor advertising area in which the permitted outdoor advertising structure is located in writing prior to making any changes to that structure. If they do not make this contact with the specialist before making such changes, the department shall not be liable for any loss due to the removal of and loss of the permit for the outdoor advertising structure.

*AUTHORITY: sections 226.150[, RSMo 1994] and 226.530, RSMo [Supp. 1998] **2000 and 226.500–226.600, RSMo 2000 and Supp. 2002**. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003.*

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.070 Permits for Outdoor Advertising. The commission proposes to amend sections (3) through (8) and delete section (9).

PURPOSE: This amendment is, in part, a result of HB 1508 and provides new information regarding permit applications and fees, informal hearings on denials of permits, issuance and transfer of permits, and biennial inspection fees. This amendment further provides that copies of leases or letters from the property owners, a sketch of the proposed sign location and, if zoned, a letter from the zoning authority, and copies of all local business licenses for the business, be submitted with the permit application.

(3) Outdoor Advertising Not Eligible for Permits. Unlawful signs are not eligible for permits from the commission. Applications and fees for permits from the sign owners or the owners of the land on which these signs are located shall be rejected and returned with any fee submitted to the applicant by the *[district engineer]* **right-of-way director or designee**.

(4) Permit Applications and Fees.

(A) Information. Any person may obtain permit application information, including copies of sections 226.500–226.600, RSMo, *[administrative rules]* **7 CSR 10-6.010–7 CSR 10-6.100**, application forms, maps of the interstate and primary highway systems, and *[district]* **area** maps showing the location of *[district]* **area** offices and the counties within each area, in person, **or** by writing or *[by]* telephoning the *[district engineer]* **right-of-way director or designee** at any *[department district]* **area** office. It is most efficient to contact the *[district engineer of]* **area permit specialist for** the county in which the outdoor advertising is located (see 7 CSR 10-6.010 **for a list of the counties and how to obtain information and materials**).

(B) Filing of Permit Applications and Permit Fees. Sign owners or owners of the land on which outdoor advertising is located must apply for permits from the commission for outdoor advertising specified by section 226.550, RSMo (see *[section]* **7 CSR 10-6.070**(2)). Permit applications must be*[—]***:**

1. Timely submitted. For new outdoor advertising to be erected, the application for permit **and the permit application fee of two hundred dollars ($200)** shall be submitted before erecting or starting construction of any sign requiring a permit from the commission. The *[district engineer]* **area permit specialist** will *[cause]* **perform** a field inspection *[to be made]* of the proposed location to determine whether or not the site complies with the requirements of sections 226.500–226.600, RSMo. For all nonconforming outdoor advertising requiring a permit from the commission and for any other existing outdoor advertising lawfully erected, but for failure to obtain a permit prior to its erection from the commission, the application for permit must be submitted to and received by the *[district engineer]* **right-of-way director or designee** within thirty (30) days of receipt by the applicant of a notice to remove outdoor advertising under section 226.580, RSMo from the commission specifying the failure to obtain or maintain a permit for a sign for which a permit and biennial inspection is required by section 226.550, RSMo. Failure of the applicant to timely submit an application for permit shall be cause for the *[district engineer]* **right-of-way director or designee** to reject and return the application for permit;

2. Submitted to the *[district engineer]* **right-of-way director or designee** for the county in which the outdoor advertising is located (see 7 CSR 10-6.010)**, along with the required permit application fee**;

3. Submitted upon forms supplied by the *[commission]* **department**. These forms will be supplied by the *[district engineer]* **right-of-way director or designee** upon request. *[These forms must be completed in full.]* **The applicant shall provide a completed application with a copy of a lease or a letter from the property owner granting permission to erect or maintain a sign on his/her property; a sketch of the proposed location and, if zoned, a letter outlining the zoning classification from the zoning authority; and copies of all local business licenses for the qualifying business.** Incomplete or incorrectly completed permit application forms shall be rejected *[or]* **and** returned by the *[district engineer]* **right-of-way director or designee** to the applicant; and

[4. Submitted to the district engineer along with the required permit fee.

A. The permit fee is twenty-eight dollars and fifty cents ($28.50), except for tax exempt religious organizations which shall be granted a permit for signs less than seventy-six (76) square feet without payment of the fee. For purposes of this rule, a tax exempt religious organization is one which submits a copy of its certification of tax exempt status from the Internal Revenue Service along with its permit application. Religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, may be granted a permit for a sign less than seventy-six (76) square feet without payment of the permit fee.]

4. Biennial inspection fees due after August 28, 2002, and prior to August 28, 2003, shall be fifty dollars ($50). Biennial inspection fees due on or after August 28, 2003, and prior to August 28, 2004, shall be seventy-five dollars ($75). Biennial inspection fees due on or after August 28, 2004, shall be one hundred dollars ($100). Religious organizations, service organizations, veteran organizations, and fraternal organizations, as defined in section 313.005, RSMo, upon submission of a copy of their certification of Internal Revenue Service tax exempt status, may be granted a fee exempt permit provided the display area of the sign is less than seventy-six (76) square feet.

[B.] **A.** Failure to submit the correct amount of fee by check, draft or money order payable to "Director of Revenue—Credit State Road Fund" shall be cause for the *[district engineer]* **right-of-way director or designee** to reject and return the application for permit. If assistance is needed in calculating the correct permit fee, contact the *[district engineer]* **right-of-way director or designee** for the county in which the sign is located before filing the application (see 7 CSR 10-6.010).

[C.] **B.** Documentation and assistance required upon request. Any applicant must submit to the *[district engineer]* **right-of-way director or designee** upon written request, written information or documentation, as specified in the request, sufficient for the *[chief engineer]* **right-of-way director or designee** to determine whether or not a permit should be issued under section 226.550, RSMo. Also, any applicant may be asked to assist the *[district engineer]* **right-of-way director or designee** in locating *[a]* **the** sign location described in an application for permit. Refusal or failure of an applicant to comply with a request for information, documentation or assistance shall be grounds for the *[district engineer]* **right-of-way director or designee** to reject and return the application for permit.

[D.] **C.** Misrepresentation of fact. Any misrepresentation of material fact by an applicant on any application for permit shall be grounds for the *[district engineer]* **right-of-way director or designee** to reject and return the application for permit.

[E.] **D.** All fees must be paid. No permit shall be granted to any applicant who is delinquent in the payment of any outdoor advertising fees to the commission, including any removal costs or biennial inspection fees associated with any sign.

(5) Informal Hearing on Denial of Permit.

(A) Request for Informal Hearing. If denied a permit, the applicant may have twenty (20) working days to request an informal hearing by the Outdoor Advertising Permit Review Committee for the purpose of appealing the denial. The applicant shall submit its request for an informal hearing to the *[Secretary, Missouri Highway and Transportation Commission]* **Outdoor Advertising Manager**, **Missouri Department of Transportation**, P*[.]*O*[.]* Box 270, Jefferson City, MO 65102.

(B) Procedure. If the applicant requests a**n** *[timely]* informal hearing, the *[commission]* **outdoor advertising manager** shall advise the applicant of the time, date and place. This is not a contested case under Chapter 536, RSMo. The rules of evidence shall not apply at the hearing.

(6) Permits.

(A) *[Issue and Use of]* **Issuance of the** Permit. Upon proper application and payment of fee for any sign eligible for a permit, the *[district engineer]* **right-of-way director or designee** shall issue a one (1)-time permanent permit. The permit owner must erect the sign, if not already in existence within two (2) years of the date the permit was issued by the commission **and the erected outdoor advertising structure must comply with all current sections of 226.500 through 226.600, RSMo, and 7 CSR 10-6.010 through 7 CSR 10-6.100. This permit is for the erection of a legal conforming outdoor advertising structure**. *[The permit holder must contact the outdoor advertising office in that area in writing within thirty (30) days of the sign's erection. No permits will be granted at locations where unpermitted tree cutting has taken place.]*

(B) Transfer of Permit. When a sign owner transfers ownership of a sign for which a permit is required by section 226.550, RSMo, the new sign owner shall notify the commission by filing an application for transfer, along with a ten dollar ($10) fee, on a form supplied by the *[district engineer that issued the original permit which is the district engineer]* **right-of-way director or designee** for the *[county]* **area** in which the sign is located (see 7 CSR 10-6.010). Applications must be completed in full. Incomplete or incorrectly completed application forms shall be rejected *[or]* **and** returned by the outdoor advertising permit specialist to the applicant.

(C) Voiding of Permits. **Permits may be voided under the following conditions:**

1. Any misrepresentation of material fact on any application under this section or violation of any one (1) or more of the requirements of this section shall be grounds for *[the district engineer to void]* **voiding** the permit. Any existing sign is then maintained without a permit and subject to removal under section*[s]* 226.580, RSMo and 7 CSR 10-6.080(2). *[Unpermitted tree cutting or trimming in front of a permitted sign or maintaining a sign via the state right-of-way shall be grounds for voiding a permit. The district engineer shall notify the sign owner and the owner or occupant of the land on which the sign is or was located in writing of the voiding of the permit. Permit fees shall be retained by the commission. The district engineer shall issue a notice to remove outdoor advertising under section 226.580.3, RSMo.]* **A notice to remove outdoor advertising shall be sent to the sign owner and to the landowner;**

2. The permit for any unbuilt structure shall be voided if the sign, complete with message, is not in existence within two (2) years of the date the permit was issued by the commission.

(7) Biennial Inspection *[and]* Fee. *[The commission]* **A biennial inspection fee** shall **be** collect**ed** *[on or before the second annual anniversary of the date the permit was issued and each two (2) years after that, a biennial inspection fee of twenty-eight dollars and fifty cents ($28.50). This inspection fee shall apply to all signs for which a permit must be obtained or for which a permit is obtained.]* **every two (2) years as set forth in section 226.540, RSMo. The biennial inspection fee must be received by the due date on the statement issued from the Missouri Department of Transportation and will be considered delinquent if not paid within sixty (60) days after the due date on the statement. Fees received from any sign owner that owes delinquent fees to the department will be credited to the past due accounts before applying the remainder, if any, toward issuance of a new permit for: outdoor advertising, vegetation cutting and trimming, or transfer of ownership of an outdoor advertising permit.**

(8) Relocation. Relocation of any sign for any reason whatsoever is a new erection as of the date the relocation is completed and these signs must then comply with the then effective sizing, lighting, spacing, location and permit requirements of sections 226.500–226.600, RSMo. Relocation of any sign voids any permit issued by the commission for that sign and the fee shall be retained by the commission. The *[district engineer]* **right-of-way director or designee** shall issue a notice to remove outdoor advertising under section 226.580, RSMo. A new application for permit must be filed with the *[district engineer]* **right-of-way director or designee** and the sign can only be relocated in compliance with the sizing, lighting, spacing and location requirements of sections 226.500–226.600, RSMo.

[(9) Voiding of Permit. The issuance of a notice to remove outdoor advertising or a notice to terminate a nonconforming sign shall be notice that any permit or the sign is void. No other notice for voiding a permit is necessary.]

*AUTHORITY: sections 226.150[, RSMo 1994] and 226.530, RSMo [Supp. 1998] **2000 and 226.500–226.600, RSMo 2000 and Supp. 2002**. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003.*

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.080 Removal of Outdoor Advertising Without Compensation. The commission proposes to amend sections (2), (3), (4), and (7), and to delete section (5), and add a new section (7).

PURPOSE: This amendment, in part, as a result of HB 1508, provides additional information concerning the removal of unlawful or nonconforming signs, and the authority to withdraw any notice to remove outdoor advertising. This amendment further removes the provision regarding tourist oriented advertising.

(2) Removal of Unlawful Signs. The *[district engineer]* **right-of-way director or designee** shall serve a notice to remove outdoor advertising under section 226.580.3, RSMo for the following signs which are unlawful because they have been determined by the *[district engineer]* **outdoor advertising manager** to be:

(C) Signs for which biennial inspection fees are *[delinquent,]* **past due for a period of twelve (12) months or more** (see section 226.580.1(2), RSMo);

(D) Signs which are obsolete, that is signs that for a continuous period of one (1) year or longer have advertised services or products no longer available to the traveling public because the services or products have been discontinued or cannot be obtained at the destination or by the directions indicated on the signs. A **legal conforming** sign shall not be considered obsolete solely because it does not carry an advertising message for a period of less than one (1) year;

(3) Removal of Nonconforming Signs. The *[district engineer]* **right-of-way director or designee** shall issue a notice to terminate a nonconforming sign pursuant to 7 CSR 10-6.060(3)(G).

(4) Authority to Withdraw Notices. The chief engineer is authorized to withdraw any notice to remove outdoor advertising issued by the *[district engineer]* **right-of-way director or designee** under section 226.580, RSMo or any notice to terminate a nonconforming sign issued by the *[district engineer]* **right-of-way director or designee** under 7 CSR 10-6.060(3)(G) for any one (1) of the following reasons: where the notice to remove was improperly issued by the *[district engineer]* **right-of-way director or designee** because of a mistake of law or fact, where the sign has been removed or the basis of unlawfulness has been corrected or has ceased to exist, or where it is finally adjudicated that the notice to remove was not authorized by sections 226.500—226.600, RSMo. If a timely request for administrative review of notice to remove outdoor advertising or a notice to terminate nonconforming sign has been made, the *[chief engineer or district engineer]* **right-of-way director or designee** shall advise the hearing examiner of any withdrawal of a notice to remove outdoor advertising or a notice to terminate nonconforming sign.

[(5) Criteria for Determination of Signs Advertising Tourist-Oriented Type Business. Signs advertising tourist-oriented type business means outdoor advertising, as determined by the chief engineer, displaying directional information about activities and goods limited to gasoline and associated vehicle services such as fuel, oil, water, lubrication, tires and repairs; food; lodging; camping; natively produced handicraft goods; amusement facilities; public places owned or operated by federal, state or local governments or their agencies; publicly- or privately-owned natural phenomena, historic, cultural, scientific, educational and religious sites; or areas of natural scenic beauty or naturally suited for outdoor recreation. Directional information consists of mileage, route numbers, exit numbers, or the like, useful to the traveler in locating these activities and goods. The term signs advertising tourist-oriented type business, as used in section 226.580.6., RSMo applies only to signs erected before March 30, 1972.]

*[(6)]***(5)** Structures Which Have Never Displayed an Advertising Message. Structures, including poles, which have never displayed advertising or informative content are subject to control and removal when advertising content visible from the main-traveled way is added or affixed.

*[(7)]***(6)** Remedial Action. Any notice to remove outdoor advertising which is issued by the *[district engineer]* **right-of-way director or designee** shall specify any available remedial action to correct the violation. The notice to remove outdoor advertising shall also establish the length of time which is available to take the remedial action. Any length of time *[specificized]* **specified** for taking remedial action shall not lengthen the time available for requesting an administrative hearing. The remedial action which is specified in the notice to remove outdoor advertising may include the removal of the violating sign.

(7) Status of Permit. The issuance of a notice to remove outdoor advertising or a notice to terminate nonconforming outdoor advertising shall be notice that any permit for that outdoor advertising structure shall be surrendered upon removal of the structure. No other notice is necessary under these conditions.

*AUTHORITY: sections 226.150 and 226.530, RSMo [1986] **2000 and 226.500–226.600, RSMo 2000 and Supp. 2002**. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003.*

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.085 Cutting and Trimming of Vegetation on Right-of-Way. The commission proposes to amend sections (2) and (4) and subsections (1)(B), (1)(D), (3)(B), and (3)(D), and add a new section (4).

PURPOSE: This amendment extends the duration of the permit and clarifies language regarding cutting and trimming of vegetation. This amendment also provides information regarding performance bond, the use of herbicides, and appeals for denials of permits.

(1) Permits. A permit is required to cut or trim any vegetation in front of any lawful sign. A separate permit is required for each sign structure. Permits to cut vegetation will be issued only for lawful signs which are at least five (5) years old. Permits to trim trees will be issued only after a lawful sign is at least two (2) years old. A vegetation permit may be denied or limited if the plan is deemed to be detrimental to the stability of the state right-of-way as determined by the *[R]***r**oadside *[E]***e**nhancement *[M]***m**anager.

(B) Fee. The cost of a permit for trimming and cutting is determined by the vegetation to be removed. All diameter measurements contained in this rule shall be measured at four and one-half feet (4 1/2') above ground level. There is no fee to trim trees in accordance with subsection (3)(F) of this rule or remove brush and trees with a diameter of less than six inches (6"), but a permit will still be required. The fee to remove each tree with a diameter equal to or greater than six inches (6") is one hundred dollars ($100) plus an additional one hundred dollars ($100) for every inch of diameter greater than six inches (6"). Measurements for diameter will be rounded down to the nearest inch. For example, the fee for trimming or removing a tree six and three-fourths inches (6 3/4") in diameter would be one hundred dollars ($100); the fee for a tree ten and one-half inches (10 1/2") in diameter would be five hundred dollars ($500). *[Also, a]***A** performance bond in an amount up to one thousand dollars ($1,000) shall be required *[if the district engineer or his/her representative deems it necessary]* to ensure restoration of highway right-of-way. Fees will be placed in a roadside enhancement fund and utilized by the department to plant trees and do other landscaping on highway right-of-way. A cash bond equal to the amount of vegetation to be removed must be filed with the department prior to any work on the right-of-way. All fees must be paid prior to the commencement of any tree trimming.

(D) Duration. All permits shall expire after *[sixty (60)]* **one hundred twenty (120)** days.

(2) Access. Access to the cutting or trimming area shall be from private property or outer roadways and cannot be made from the through traffic roadway*[s on the interstate and freeway primary highway systems]* **of any highway maintained by the department without written permission from the department**. *[On other primary roads, access will be from locations approved by the department.]* Parking of equipment or placement of materials on the traffic lanes or shoulders is strictly prohibited.

(3) Conditions. The following conditions shall apply to trimming and cutting of vegetation on highway right-of-way:

(B) Damage to Right-of-Way. **The** *[A]***a**pplicant will be held responsible for any damage to the right-of-way. Any destruction of turf will require the applicant to restore the right-of-way to a like or better condition, which may require seeding, mulching or sodding of the right-of-way which has been disturbed;

(D) Herbicides. Only herbicides approved by the *[district engineer]* **district roadside enhancement manager** may be used to trim or remove vegetation. Only general use non*[-]*restricted herbicides may be used. All herbicides must be used in strict accord with the manufacturer's instructions on the label. Restricted use herbicides may not be used on right-of-way. **The** *[A]***a**pplicator must be a certified commercial applicator or under the supervision of a certified commercial applicator. The *[Missouri Department of Transportation (MoDOT)]* **district** roadside enhancement manager or *[their]* authorized representative will approve the area to be sprayed before a permit is issued. **The** *[A]***a**pplicant must avoid desirable vegetation. Holder of the permit is liable for all damages or damage claims resulting from the herbicide application. **The** *[A]***a**pplicant must comply with the Missouri Pesticide Use Act, sections 281.005 through 281.115, RSMo *[(as amended)]*. In U.S. Forest Service areas, permit applicants must obtain written permission for use of herbicides from the *[district engineer]* **district roadside enhancement manager**. The fee for controlling the growth of a tree, with herbicides, is determined in the same manner as tree removal under subsection (1)(B). All trees controlled with herbicides, requiring a fee, shall be cut down and removed within sixty (60) days of treatment;

(4) Unpermitted tree cutting or trimming in front of a permitted sign or maintaining a sign via the state right-of-way shall be grounds for removal of the sign. The area specialist shall issue a notice to remove outdoor advertising under section 226.580.3, RSMo. Upon removal of the sign, the permit shall be surrendered.

*[(4)]***(5)** Appeal for Denial of Permit to Cut or Trim. If denied a permit to cut or trim **vegetation**, the applicant has twenty (20) working days to submit a written appeal to the *[division engineer,]* Right-of-Way *[Division]* **Director**, Missouri *[Highways and Transportation]* Department **of Transportation**, P*[.]*O*[.]* Box 270, Jefferson City, MO 65102.

*AUTHORITY: sections 226.150 [and], 226.585, [RSMo 1994] and 226.530, RSMo [Supp. 1998] **2000 and 226.500–226.600, RSMo 2000 and Supp. 2002**. Original rule filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003.*

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.090 Administrative Review of Notices to Remove Outdoor Advertising and to Terminate Nonconforming Signs. The commission proposes to amend sections (1), (4), (5) and (8).

PURPOSE: This amendment provides additional information concerning the administrative review process with respect to requests for hearing, notice of hearing, legal representation, and continuance of hearing.

(1) Request for Administrative Review. Any person given a notice to remove outdoor advertising under section 226.580, RSMo and 7 CSR 10-6.080(2) by the *[district engineer]* **right-of-way director or designee** shall be entitled to an administrative hearing under Chapter 536, RSMo by filing a written request for hearing with the *[district engineer who issued the notice at the address shown on the notice]* **Secretary of the Missouri Highways and Transportation Commission, PO Box 270, Jefferson City, MO 65102**. This request for hearing must be received by the *[district engineer]* **commission secretary** within thirty (30) days after receipt of the notice to remove outdoor advertising by the applicant. The request for hearing must be sufficient to identify the person(s) requesting the hearing and the outdoor advertising structure for which the hearing is requested. No answer or other response by the commission is necessary. Upon receipt of the request for hearing, the *[district engineer]* **commission secretary** shall forward the request to the hearing examiner for the commission.

(4) Notice of Hearing. The hearing examiner shall give written notice of hearing to the applicant and *[district engineer]* **right-of-way director or designee** fixing a time and place for a hearing, at which time the applicant and *[district engineer]* **right-of-way director or designee** may appear and present evidence. *[This notice shall be issued by t]***The** hearing examiner **shall issue this notice** not less than fifteen (15) days prior to the date fixed for hearing. In instances where more than one (1) request for hearing is received from the same person, the hearing examiner may consolidate those hearings in the interest of economy.

(5) Legal Representation Required. After the request for administrative review is filed with the *[district engineer]* **commission secretary**, no person shall sign any pleading or brief or shall appear at any administrative hearing in a representative capacity for a corporation, partnership or another individual unless this person is a licensed attorney in good standing in Missouri.

(8) Continuances. Any hearing *[which]* **that** is scheduled by the hearing examiner may be continued at the discretion of the hearing examiner pursuant to Supreme Court Rule 65.

AUTHORITY: sections 226.150 and 226.530, RSMo [1986] ***2000 and 226.500–226.600, RSMo 2000 and Supp. 2002****. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003.*

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, Mari Ann Winters, 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.*

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.100 Removal or Concealment of Outdoor Advertising Pending Judicial Review. The commission proposes to amend section (2).

PURPOSE: This amendment clarifies that the commission may also conceal outdoor advertising messages.

(2) Removal **or Concealment** of Advertising Message by Commission. If the owner of the structure refuses or fails to remove or conceal the advertising message within thirty (30) days of filing a petition for judicial review, the commission may remove **or conceal** all sign panels which contain any portion of the advertising message and the owner of the structure shall be liable for the costs of this *[removal]* **process**. If the owner refuses to accept the panels after the removal, the commission will store them for a period not to exceed sixty (60) days and recover all costs of transporting and storing the panels from the owner. If after sixty (60) days the owner has not paid all costs associated with the commission's transporting and storing the panels and taken custody of the panels, the commission shall dispose of them as it sees fit with no compensation to the owner.

AUTHORITY: sections 226.150, ***[and]*** *226.530,* ***[RSMo 1986] 2000*** *and 226.580.5., RSMo [Supp. 1992]* ***Supp. 2002 and 226.500–226.600, RSMo 2000 and Supp. 2002****. Original rule filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003.*

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, Mari Ann Winters, 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.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 10—Division of Employment Security
Chapter 3—Unemployment Insurance

PROPOSED RULE

8 CSR 10-3.130 Direct Deposit of Unemployment Benefits

PURPOSE: This rule implements and sets forth the requirements regarding the mandatory direct deposit of unemployment benefits into claimants' accounts at financial institutions.

(1) The Division of Employment Security has established an electronic funds transfer system to transfer directly to claimant's accounts in financial institutions benefits payable to them pursuant to Chapter 288, RSMo. This program shall be known as the Unemployment Benefit Direct Deposit Program.

(2) Unless the division waives application of this rule, all benefits payable pursuant to Chapter 288, RSMo shall be transferred by means of electronic funds transfer directly into claimant's accounts in financial institutions designated by the claimants.

(3) Each individual filing an initial claim for a determination of insured worker status shall complete a direct deposit application form authorizing the division to deposit benefit payments into a designated checking or savings account. The direct deposit application form shall be completed and transmitted to the division within ten (10) days after the filing of the initial claim. The completion of a direct deposit application form shall authorize the division to initiate credit entries, and debit entries to correct erroneous credit entries, to the claimant's designated checking or savings account. On the direct deposit application form the claimant shall provide the following: claimant's name, claimant's Social Security number, name of the designated financial institution, type of deposit account, signature, and date. The claimant shall transmit the completed direct deposit application form to the division with a void or canceled check or deposit slip for the designated deposit account. Direct deposit application forms may be obtained by contacting one of the division's regional claim centers or by downloading the form through the division's Internet website at http://dolir.mo.gov/es/ui-benefits/B-6-5AI.pdf.

(4) At any time during the benefit year, a claimant may change the designated checking or savings account by completing and transmitting to the division a new direct deposit application form. Unless the claimant changes the designated checking or savings account by completing a new direct deposit application form, the division shall direct all benefits payable to the claimant during his or her benefit year to the checking or savings account designated by the claimant on the direct deposit application form currently on file with the division. All individuals currently claiming benefits pursuant to Chapter 288, RSMo shall complete a direct deposit application form as directed by the division.

(5) The division may waive application of this rule and continue to pay benefits by warrant under any of the following circumstances:

(A) The claimant has a physical or mental disability, as documented by a health care professional, that would impede the claimant's ability to gain access to electronically deposited funds;

(B) The claimant certifies that his or her religious convictions preclude the use of direct deposits;

(C) The claimant is precluded from having a checking or savings account because his or her primary residence is too remote to have access to a financial institution;

(D) The claimant's financial institution submits a written statement to the division confirming the institution's inability to accept an electronic deposit or withdrawal;

(E) The claimant's financial institution submits a written statement to the division confirming that the institution charges for an electronic deposit or withdrawal;

(F) The claimant does not have a checking or savings account currently and is unable to establish such an account within the claimant's geographic area without the payment of a service fee;

(G) The claimant does not have a checking or savings account currently and all financial institutions within the claimant's geographic area charge a service fee to establish or maintain such an account unless the claimant maintains a minimum balance in the account; or

(H) The division determines that the facts of the particular case warrant a waiver of this rule.

(6) Any request for a waiver of this rule shall be in writing, signed by the claimant, and transmitted to the division. The request must set forth in detail why the claimant cannot utilize direct deposit of unemployment benefit payments. The request must also include any required supporting documentation.

(7) If the division denies a claimant's request for a waiver of this rule, the claimant may appeal the denial to the appeals tribunal within thirty (30) calendar days after the denial notice is mailed to the claimant's last known address.

(8) Notwithstanding the provisions of section (2) of this rule, the division may continue to pay benefits by warrant when necessary to comply with federal or state law.

AUTHORITY: sections 288.060 and 288.220, RSMo 2000. Emergency rule filed April 14, 2003, effective May 1, 2003, expires Oct. 27, 2003. Original rule filed April 14, 2003.

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 Division of Employment Security, Attn: Gracia Y. Backer, Director; PO Box 59; Jefferson City, MO 65104-0059. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.010 Maximum Contaminant Levels and Monitoring Requirements. The commission is amending section (3).

PURPOSE: This amendment revises the maximum holding time for coliform samples in order to be consistent with federal requirements at 40 CFR 141.21(f)(3).

(3) Samples taken to determine compliance with the requirements of this chapter shall be taken at representative points of the public water system, as approved by the department. The supplier of water shall provide satisfactory sampling taps. Samples for microbiological analysis must be received in the laboratory for analysis within *[forty-eight (48)]* **thirty (30)** hours of collection.

*AUTHORITY: section 640.100, RSMo [Supp. 1999] **Supp. 2002**. Original rule filed May 4, 1979, effective Sept. 14, 1979. Amended:*

Filed April 14, 1981, effective Oct. 11, 1981. Amended: Filed Aug. 13, 1982, effective Jan. 13, 1983. Amended: Filed June 2, 1988, effective Aug. 31, 1988. Amended: Filed Dec. 4, 1990, effective July 8, 1991. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed Dec. 15, 1999, effective Sept. 1, 2000. Amended: Filed April 15, 2003.

PUBLIC COST: This proposed amendment is anticipated to cost state agencies and political subdivisions approximately one hundred thirty-nine thousand three hundred fifty dollars ($139,350) annually for the duration of the rule. Some publicly-owned public water systems (cities and public water districts, for example) may experience increased costs to replace samples that arrive at the lab after the thirty (30)-hour time limit.

PRIVATE COST: This proposed amendment is anticipated to cost five hundred thirty-four (534) privately-owned public water systems approximately two hundred thousand five hundred forty-one dollars ($200,541) annually for the duration of the rule. Some privately-owned public water systems (restaurants, factories, for example) may experience increased costs to replace samples that arrive at the lab after the thirty (30)-hour time limit.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or opposition to this proposed amendment. An information meeting and public hearing will be held July 24, 2003, 10:00 a.m., at the DNR Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Written comments must be postmarked or received by July 31, 2003. In preparing your comments, please include the regulatory citation and the ***Missouri Register*** *page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments should be mailed or faxed to: Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title:	10
Division:	60
Chapter:	4
Type of Rulemaking:	Proposed Amendment
Rule Number and Name:	10 CSR 60-4.010 Maximum Contaminant Levels and Monitoring Requirements

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate (Annualized Cost)*
Publicly-owned public water systems (365)	$139,350
Total Cost	$139,350

* Because the rule is anticipated to be in effect in perpetuity, the cost of compliance in the aggregate for the lifetime of the rule cannot be accurately estimated. The total annualized aggregate cost is expected to remain constant for the duration of the rule, except that the estimated cost does not take into account inflationary factors.

III. WORKSHEET

Public Water System Costs: $25 per sample x 5,574 samples = $139,350

IV. ASSUMPTIONS

1. The State Public Health Laboratories analyze about 67,980 bacteriological samples per year. About 20% (13,596) of the samples currently exceed 30 hours from time of collection till initiation of analyses.

2. Of the 2,716 public water systems in Missouri, 41% are publicly owned (1,097 systems).

3. It is assumed that 41% of the 13,596 late samples are from publicly-owned systems. Therefore, a total of 5,574 samples will have to be sent to the lab through an alternative, faster method of delivery. Between alternative couriers, increased travel time to drop off samples, and the increase in cost of guaranteed delivery, it is assumed that publicly-owned systems can expect to spend an extra $25 per sample.

4. This proposed rule will not impact all publicly owned public water systems. Most water systems do not have a problem consistently meeting the 30-hour holding times. Only those systems whose bacti samples consistently exceed the 30-hour holding times will be impacted. This is approximate 1/3, or 365, of the total publicly-owned water systems. For some of these systems, the options to meet the holding times may pose no significant monetary increase

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title:	10
Division:	60
Chapter:	4
Type of Rulemaking:	Proposed Amendment
Rule Number and Name:	10 CSR 60-4.010 Maximum Contaminant Levels and Monitoring Requirements

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed amendment	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: *
534	Privately-owned public water systems	$200,541
		Total Cost = $200,541

* Because the rule is anticipated to be in effect in perpetuity, the cost of compliance in the aggregate for the lifetime of the rule cannot be accurately estimated. The total annualized aggregate cost is expected to remain constant for the duration of the rule, except that the estimated cost does not take into account inflationary factors.

III. WORKSHEET

Private Water System Costs: $25 X 8,021 samples = $200,541

IV. ASSUMPTIONS

1. The State Public Health Laboratories analyze 67,980 bacteriological samples per year. About 20% (13,596) of the samples currently exceed 30 hours from time of collection till initiation of analyses.

2. Of the 2,716 public water systems in Missouri, 59% are privately owned (1,619) systems.

3. It is assumed that 59% of the 13,596 late samples are from privately-owned systems. Therefore, a total of 8,021 samples will have to be sent to the lab through an alternative method of delivery. Between alternative couriers, increased travel time to drop off samples, and the increase in cost of guaranteed delivery, the systems can expect to spend an extra $25 per sample.

4. This proposed amendment will not impact all privately-owned public water systems. Most water system do not have a problem consistently meeting the 30-hour holding times. Only those systems whose bacti samples consistently exceed the 30-hour holding times will be impacted. This is approximately 1/3, or 534, of the privately-owned public water systems. For some of these systems, the options to meet the holding times may pose no significant monetary increase.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 5—Laboratory and Analytical Requirements

PROPOSED AMENDMENT

10 CSR 60-5.010 Accepted and Alternate Procedures for Analyses. The commission is amending paragraph (3)(D)1.

PURPOSE: This amendment revises the maximum holding time for coliform samples in order to be consistent with federal requirements at 40 CFR 141.21(f)(3).

(3) Microbiological Contaminants. Unless substitute methods are approved, this section (3) lists acceptable analysis procedures for microbiological contaminants.

Contaminant	Approved Manual or Procedure
(D) Total Coliform.	1. The standard sample volume required for total coliform analysis, regardless of analytical method used, is one hundred milliliters (100 ml). The time from sample collection to initiation of analysis may not exceed *[forty-eight (48)]* **thirty (30)** hours. *[If the laboratory analyzes samples after thirty (30) hours and up to forty-eight (48) hours from sample collection, the laboratory shall indicate on the report of the analysis results that the data may be invalid because of excessive delay before sample processing.]* 2. *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, 18th edition— A. Fermentation technique, method 9221A, B. (I) Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the system conducts at least twenty-five (25) parallel tests between this medium and lauryl tryptose broth using the water normally tested, and this comparison demonstrates that the false-positive rate for total coliforms, using lactose broth, is less than ten percent (10%). (II) If inverted tubes are used to detect gas production, the media should cover these tubes at least one-half (1/2) to two-thirds (2/3) after the sample is added. (III) No requirement exists to run the completed phase on ten percent (10%) of all total coliform-positive confirmed tubes. B. Membrane filter (MF) technique, method 9222A, B, C. C. Presence-absence (P-A) coliform test, method 9221D. (I) Six-times formulation strength may be used if the medium is filter-sterilized rather than autoclaved. (II) No requirement exists to run the completed phase on ten percent (10%) of all total coliform-positive confirmed tubes. D. ONPG-MUG Test (also known as the Autoanalysis Colilert System, method 9223). E. Colisure test. The Colisure test must be incubated for twenty-eight (28) hours before examining the results. If an examination of the results at twenty-eight (28) hours is not convenient, then results may be examined at any time between twenty-eight (28) and forty-eight (48) hours. A description of the Colisure test may be obtained from the Millipore Corporation, Technical Service Department, 80 Ashby Road, Bedford, MA 01730.

*AUTHORITY: sections 640.100, **RSMo Supp. 2002** and 640.125.1, RSMo [Supp. 1999] **2000**. Original rule filed May 4, 1979, effective Sept. 14, 1979. For intervening history, please consult the **Code of State Regulations**. Amended: Filed April 15, 2003.*

PUBLIC COST: This proposed amendment is anticipated to cost state agencies and political subdivisions less than five hundred dollars ($500) in the aggregate for the duration of the rule.

PRIVATE COST: This proposed amendment is anticipated to cost private entities less than five hundred dollars ($500) in the aggregate for the duration of the rule.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or opposition to this proposed amendment. An information meeting and public hearing will be held July 24, 2003, 10:00 a.m., at the DNR Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Written comments must be postmarked or received by July 31, 2003. In preparing your comments, please include the regulatory citation and the **Missouri Register** page number. Please explain why you agree or disagree with the proposed change, and include alternative options or language. Written comments may be mailed or faxed to: Linda McCarty, Public Drinking Water Program, PO Box 176, Jefferson City, MO 65102. The fax number is (573) 751-3110.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.010 Purpose. The division is amending subsection (1)(A) by adding "serious incident" in accordance with state statute change.

PURPOSE: This amendment expands the division's responsibilities involving an amusement ride accident by adding "serious incident."

(1) The purpose of this chapter is to establish—

(A) Procedures to be followed when an amusement ride accident occurs involving a serious physical injury**, serious incident** or death;

AUTHORITY: section 316.206, RSMo [Supp. 1998] 2000. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.

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 or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.020 Terms; Defined. The division is amending section (1) by adding a definition of "serious incident," amending the definition of "serious physical injury" to be consistent with state statute. Also within section (1), the division is expanding the authority to issue a stop order for an amusement ride.

PURPOSE: This rule defines terminology used throughout the rules and regulations.

(1) The following definitions shall be used in interpreting this Act unless the context otherwise requires:

(K) Serious incident—any single incident where three (3) or more persons are immediately transported to a licensed off-site medical care facility for treatment of an injury as a direct result of being on, or the operation of, the amusement ride;

[(K)] **(L)** Serious physical injury—*[any physical injury that results in death or causes admission to a medical care facility with a physical condition determined to be serious as a direct result of the maintenance, operation or use of the amusement ride]* **a patron personal injury immediately reported to the owner or operator as occurring on an amusement ride and which results in death, dismemberment, significant disfigurement or other significant injury that requires immediate inpatient admission and twenty-four (24) hour hospitalization under the care of a licensed physician for other than medical observation**; and

[(L)] **(M)** Stop order—a written **and/or verbal** order issued by a qualified inspector**, state fire marshal or designee** for the temporary immediate cessation of the operation of any amusement ride.

AUTHORITY: section 316.206, RSMo [Supp. 1998] 2000. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.

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 or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED RULE

11 CSR 40-6.031 Amusement Ride Inspection

PURPOSE: This rule explains the procedures to obtain a Missouri amusement ride operating permit and the requirement of an annual safety inspection of amusement rides by a qualified amusement ride inspector.

(1) No amusement ride shall operate in Missouri without a current state operating permit issued by the division. Each calendar year an amusement ride owner shall apply for an operating permit to the division on a form furnished by the division and containing such information as the division may require. Such permit is valid for current calendar year and is not transferable.

(2) State operating permit(s) shall be issued by the division upon receipt of the following:

(A) Completed Application for Amusement Ride Operating Permit;

(B) Completed Amusement Ride Inspection Report signed by an approved qualified inspector;

(C) Current certificate of insurance with one (1) million dollars minimum liability insurance coverage; and

(D) Permit fee of fifteen dollars ($15) per ride.

(3) Ride owner shall affix permit inspection decal issued by the division to a basic structure of the ride readily accessible to the authorized inspector.

(4) Upon the sale or transfer of a state permitted amusement ride the current permit holder shall notify the division in writing within five (5) working days of such transaction and provide information concerning the recipient. The state permit inspection decal shall be removed or obliterated before the ride is sold or transferred by the permit holder.

(5) A renovation of an amusement ride that changes the dynamics or control system of the ride shall require a reinspection by a qualified amusement ride inspector before being operated in Missouri.

AUTHORITY: section 316.206, RSMo 2000. Original rule filed April 2, 2003.

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 may or may not cost private entities more than five hundred dollars ($500) in the aggregate, depending upon the number of rides required to be inspected. See attached fiscal note.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rule with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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.*

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	11 CSR 40-6.031
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed 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:
125	Amusement Ride owners/businesses	$15.00 operating permit fee per ride

III. WORKSHEET

During 2002 approximately 125 amusement ride owners/businesses obtained permits from the Division of Fire Safety per state statute RSMo 316.210. Each ride must obtain a $15.00 state operating permit and submit to an annual safety inspection by a state "approved" amusement ride inspector. An exact cost of such inspection cannot be reported due to varying fee schedules by independent inspectors/companies. In addition, RSMo 316.210 requires minimum liability insurance coverage. No exact cost can be reported due to varying insurance premium rates. Statistics in 2002 reflect that the average number of rides by an owner/company is eight (8).

IV. ASSUMPTIONS

Approximately 125 amusement ride owners/businesses will be required to comply with RSMo 316.210. Depending upon the number of rides owned, the total cost of compliance may exceed $500.00.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.040 Liability Insurance—Amusement Rides Owner; Required. The division is amending section (1) deleting reference to independent contractor and accepting cash or other security in lieu of liability insurance.

PURPOSE: This amendment will eliminate reference to an independent contractor requiring liability insurance to be obtained. The amendment will also eliminate cash or other security to be accepted by the division to satisfy a liability insurance requirement.

(1) No amusement ride shall be operated unless at the time of operation there is in existence—

(A) A policy of insurance written by an insurance company authorized to do business in this state in an amount not less than one (1) million dollars per occurrence *[(if an independent contractor)]* against liability for injury to persons arising out of the operation of the amusement ride; or

(C) Cash or other security acceptable to the division.

*AUTHORITY: section 316.206, RSMo [Supp. 1998] **2000**. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.*

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 may or may not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.045 Accident; Reporting of Injuries/Death. The division is amending section (1) adding serious incident in accordance with state statute, adding language to require accident reporting to the division to be immediately following an accident and allowing the amusement ride owner to request local fire service to make the contact for them. The amendment also changes the requirement for the owner to provide an initial accident report rather than a concise detailed narrative report to the division and also expands the release of information to the division director's designee.

PURPOSE: This amendment is partially the result of a statute change and also provides the division with earlier notification and authority to address an amusement ride accident in a more timely manner.

(1) When any serious physical injury**, serious incident** or any death occurs as a result of an amusement ride—

(B) *[Within twenty-four (24) hours]* **Immediately** after such occurrence the owner shall notify and provide *[a concise detailed narrative]* **an initial** accident report which involves a serious physical injury**, serious incident** or death to the Division of Fire Safety, Office of the State Fire Marshal by—

1. Requesting local law enforcement **agency or local fire service agency** to contact the Division of Fire Safety, Office of the State Fire Marshal; **or**

2. Telephoning the Division of Fire Safety, Office of the State Fire Marshal; *[or]*

[3. Notifying the Division of Fire Safety, Office of the State Fire Marshal by mail, facsimile or other immediate means of communication;]

(C) Within twenty-four (24) hours after receipt of any such report, the Division of Fire Safety, Office of the State Fire Marshal shall cause an investigation of the occurrence and an inspection of the ride to determine the cause of such serious physical injury**, serious incident** or death and perform the inspection/investigation in a manner that proceeds with all practicable speed and minimizes the disruption where the ride is located;

(E) The amusement ride owner shall provide the qualified inspector **or the director's designee** all information or facts known as to the cause of such accident.

*AUTHORITY: section 316.206, RSMo [Supp. 1998] **2000**. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.*

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 or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.050 Cessation Order; Operation. The division is amending section (1) to allow immediate cessation of operation of an amusement ride due to unsafe condition to be made verbally rather than being limited to written notice.

PURPOSE: This amendment allows a temporary and immediate cessation of operation of any unsafe amusement ride to be either written or verbal by the division.

(1) The division or a qualified inspector contracted by the division may order **verbally or** in writing **as soon as practical** a temporary and immediate cessation of operation of any amusement ride if it has been determined after inspection to be hazardous or unsafe. Operation of the amusement ride shall not resume until the unsafe or hazardous condition is corrected to the satisfaction of the division or such contracted inspector.

*AUTHORITY: section 316.206, RSMo [Supp. 1998] **2000**. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.*

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 or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.055 Cost; Inspection/Investigation. The division is amending section (1) increasing the cost per hour of an amusement ride inspection/investigation.

PURPOSE: This amendment increases the cost of an accident inspection/investigation by a contracted amusement ride inspector as the result of an accident within the purview of this Act.

(1) The cost of an inspection/investigation as a direct result of an accident as defined in this Act shall be the responsibility of the amusement ride **owner** due upon completion of the inspection/investigation by the *[owner]* **contracted inspector** at a rate of *[seventy-five dollars ($75)]* **one hundred twenty-five dollars ($125)** per hour plus actual expenses.

AUTHORITY: section 316.206, RSMo [Supp. 1998] 2000. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.

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 unless an amusement ride accident occurs which falls within the scope of the law. See attached fiscal note.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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.*

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	11 CSR 40-6.055
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed 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	Amusement Ride owners/businesses	$3,400.00

II. WORKSHEET

Cost of inspection/investigation by contracted qualified inspector is being increased to $125.00 per hour plus actual expenses incurred. Based upon 2002 statistics, it is estimated that three (3) incidents per year may occur in Missouri that will fall under the purview of RSMo 316. It is estimated that an average inspection/investigation may require approximately twenty-four (24) hours to complete.

$125.00 per hour X 24 hrs =	$3,000.00
(3) day hotel expenses @ avg. $75.00 per day =	$225.00
(3) meals per day @ $25.00 per day X (3) days =	$75.00
Miscellaneous expenses estimate =	$100.00
TOTAL estimated cost per inspection/investigation	$3,400.00

(Estimation does not include additional travel expenses incurred if contract with qualified inspector from out of state.

IV. ASSUMPTIONS

The number of incidents per year is based upon 2001 and 2002 statistics. This information also indicates that a cost of $125.00 per hour is the going rate for an inspection/investigation of this caliber. Depending upon the severity of the incident, an average investigation may take twenty-four (24) hours to complete.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.060 Director; Qualified Inspectors. The division is amending section (2) for clarification purposes by outlining the requirements to obtain state approved qualified inspector status.

PURPOSE: This amendment clarifies the requirements to be a qualified inspector to conduct the inspection/investigation.

(2) Minimum qualifications of inspector are as follows:

(A) Shall provide to the division a résumé detailing inspector's educational/experience history; **and**

(B) Shall be at least twenty-one (21) years of age; **and**

(C) Shall possess a high school diploma or equivalent General Education Development (GED); **and**

(D) Possess a minimum of three (3) years experience in the design, repair, operation or inspection of amusement rides and devices; **and**

(E) Possess knowledge of the requirements of the American Welding Society pertaining to the welding of parts; **and**

(F) Possess basic knowledge of requirements of NFPA 70, *National Electrical Code*, Article 525—Carnivals, circuses, fairs, and similar events; **and**

(G) Possess basic principles of mechanical and structural engineering; **and**

(H) Shall be familiar with nondestructive testing procedures; **and**

[(I) Shall provide documentation that inspector has successfully passed a written examination covering general basic knowledge, mechanical, electrical, hydraulic, and rider safety knowledge; and]

*[(J)]***(I)** Possess basic knowledge of the American Society for Testing and Materials (ASTM) requirements for amusement rides and devices; or

*[(K)]***(J)** Certified by the National Association of Amusement Ride Safety Officials (NAARSO) to have and maintain at least a level one certification*[.]***; or**

(K) Shall provide documentation as being a certified amusement ride inspector with the American Industry Manufacturing and Suppliers (AIMS) and meets such qualifications as are established by the Amusement Ride Safety Board.

*AUTHORITY: section 316.206, RSMo [Supp. 1998] **2000**. Emergency amendment filed March 16, 2001, effective March 26, 2001, expired June 26, 2001. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.*

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 or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.075 Owner; Maintain Records. The division is amending subsection (1)(C) adding qualified inspector as one that may request to view records.

PURPOSE: This amendment authorizes access to such records by a qualified amusement ride inspector.

(1) The owner of an amusement ride shall maintain the following records and make them available to the division and/or the contracted qualified inspector:

(C) A complete history file, to include maintenance, inspection, accident, and testing records for each amusement ride shall be maintained on the premises or with a traveling amusement ride for at least three (3) years. The owner shall make such records available to the division or his/her designee **or qualified inspector** upon request.

*AUTHORITY: section 316.206, RSMo [Supp. 1998] **2000**. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.*

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 or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.080 Operator; Requirements. The division is amending section (6) deleting the requirement that an amusement ride operator shall not operate a ride within four (4) hours of having consumed alcohol or controlled substance. This amendment adds language to prohibit the operation of an amusement ride while under the influence of alcohol, controlled substance, or drug, or any combination thereof. In addition, section (9) adds language requiring an amusement ride operator to submit to tests based upon probable cause to determine alcohol or drug content.

PURPOSE: This amendment makes changes to the operation of an amusement ride while the operator is under the influence of alcohol or drugs or combination.

(6) The operator shall not operate or be in physical control of any amusement ride *[after having consumed alcohol or controlled sub-stance(s) or any combination of such substances within four (4) hours.]* **while under the influence of alcohol, a controlled substance, or drug, or any combination thereof.** For the purposes of this section, the term "controlled substance" includes substances defined by Chapter 195, RSMo.

(9) Based upon probable cause, the operator of an amusement ride shall submit to a breath test or chemical tests of blood, saliva, or urine to determine the alcohol or drug content.

*AUTHORITY: section 316.206, RSMo [Supp. 1998] **2000**. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.*

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 or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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 40—Division of Fire Safety
Chapter 6—Amusement Rides

PROPOSED AMENDMENT

11 CSR 40-6.085 Passenger/Rider Responsibility/Conduct; Posting Rules. The division is amending section (1) and section (3) deleting language related to rider responsibility.

PURPOSE: This amendment clarifies rider responsibility rules and regulations and conduct of the passenger/rider.

(1) No amusement ride shall be operated in this state unless there *[is]* **are** posted safety rules and responsibilities of passenger/rider based upon standards set forth by the American Society for Testing and Materials. Signs presented for instruction to the public shall be prominently placed at each ride, bold in design, with wording short, simple and to the point.

(3) A passenger/rider on an amusement ride shall, at a minimum—

(A) Obey the reasonable safety rules posted in accordance with this act and oral instructions for an amusement ride issued by the amusement ride owner or such owner's employee or agent**.***[, unless—]*

[1. The safety rules are contrary to this act;

2. The oral instructions are contrary to this act or the safety rules; and]

[3.] **(B)** Refrain from acting in any manner that may cause or contribute to injuring such passenger/rider or others, including:

[A.] **1.** Interfering with safe operation of the amusement ride;

[B.] **2**. Not engaging any safety devices that are provided;

[C.] **3.** Disconnecting or disabling a safety device except at the express instruction of the operator;

[D.] **4.** Altering or enhancing the intended speed, course or direction of an amusement ride;

[E.] **5.** Extending arms and legs beyond the carrier or seating area except at the express direction of the ride operator;

[F.] **6.** Throwing, dropping or expelling an object from or toward an amusement ride;

[G.] **7.** Getting on or off an amusement ride except at the designated time and area, if any, at the direction of the ride operator, or in an emergency;

[H.] **8.** Unreasonably controlling the speed or direction of such passenger or an amusement ride; and

[I.] **9.** A rider may not board or attempt to board any amusement ride *[after having consumed any]* **while under the influence of** alcohol, *[or any]* **a** controlled substance**, or drug, or any combination thereof**, as defined by Chapter 195, RSMo.

*AUTHORITY: section 316.206, RSMo [Supp. 1998] **2000**. Original rule filed March 1, 1999, effective Sept. 30, 1999. Amended: Filed April 2, 2003.*

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 or in opposition to this proposed amendment with the Missouri Division of Fire Safety, William L. Farr, State Fire Marshal, PO Box 844, 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

PROPOSED AMENDMENT

12 CSR 10-23.446 Notice of Lien. The director proposes to amend the purpose, section (1) and section (2) and add a new section (4).

PURPOSE: This rule is being amended to incorporate new legislation and provide for electronic filing of a notice of lien.

*PURPOSE: This rule outlines the requirements for the perfection of a lien on a motor vehicle, trailer, **manufactured home,** all terrain vehicle, boat or outboard motor [and provides for a transition period which permits the current certificate of title and lien perfection procedure to continue] **by physical delivery or electronic filing of the notice of lien**.*

(1) A lien on a motor vehicle, trailer, **manufactured home,** all terrain vehicle, boat or outboard motor is perfected when a notice of lien meeting the requirements in section (2) is delivered to the director of revenue, whether or not the ownership thereof is being transferred. **A processing fee is collected when the notice of lien is delivered to the director.** Delivery to the director of revenue may be physical delivery of the notice of lien to the director by mail**,** or to the director or agent of the director in a Department of Revenue office**, or by electronic filing of the notice of lien**. A received date stamp placed on the notice of lien **application receipt or an electronic confirmation receipt issued** by the director or his agent will be *prima facie* proof of the date of delivery. *[No title fee or ownership document is required to be submitted to the director of revenue by the lienholder with a notice of lien, and i]***I**f *[the]* ownership is not being transferred **the lien may not be filed electronically because**, the lienholder *[may]* **must** also submit the application for title, the ownership document**, title fee** and **processing** fee**s with the notice of lien** on behalf of the owner to have a new title produced reflecting the lien.

(2) A notice of lien for a motor vehicle, trailer, **manufactured home,** all terrain vehicle, boat or outboard motor shall be in a form **or electronic format** provided or approved by the director of revenue entitled "Notice of Lien" and contain**, but not be limited to,** the following information:

(A) Name and address of owner(s);

(B) *[Vehicle]* **Unit** description, by make, model and *[vehicle]* identification number;

(C) Purchase date; *[and]*

(D) Name and address of **first and second** lienholder(s)*[.]***, if applicable;**

(E) Subject to future advances if applicable; and

(F) If filing electronically, the following information is also required:

1. Lien date, net price, previous title number and state;

2. Lienholder identification number as outlined below:

A. Federal Deposit Insurance Corporation (FDIC) number;

B. Dealer number;

C. Federal Employer Identification Number (FEIN);

D. Social Security number; or

E. Other lienholder identification number or information deemed necessary by the director.

(4) Any lienholder who elects to file a lien electronically must apply to use this option and be approved by the director.

*AUTHORITY: sections 301.600**, 301.610, 301.620, 301.660,** [and] 306.400, [RSMo Supp. 1999] **306.405, 306.410, 306.430, 700.350, 700.355, 700.360 and 700.380 RSMo Supp. 2002**. Emergency rule filed Aug. 18, 1999, effective Aug. 28, 1999, expired Feb. 23, 2000. Original rule filed Aug. 18, 1999, effective Feb. 29, 2000. Amended: Filed June 13, 2000, effective Dec. 30, 2000. Amended: Filed April 9, 2003.*

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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 80—Business Entities

PROPOSED RULE

15 CSR 30-80.010 Redaction of Social Security Numbers and Dates of Birth from Business Entity Filings

PURPOSE: This rule establishes procedures for redacting Social Security numbers and specific dates of birth from business entity filings.

(1) The Business Services Division may redact information from a business entity filing image when that information appears to be an individual's Social Security number or date of birth.

(2) The Business Services Division will use procedures reasonably practicable under the circumstances to prevent an individual's Social Security number or date of birth submitted on a business entity filing from appearing on imaged documents available on-line or otherwise accessible to the public. The person submitting a business entity filing to the Business Services Division assumes the ultimate responsibility for providing unnecessary personal information, such as Social Security numbers and dates of birth, within a business entity filing that is a public record pursuant to Chapter 610, RSMo.

AUTHORITY: sections 351.660, 355.061, 356.031 and 610.035, RSMo 2000. Emergency rule filed May 1, 2003, effective May 11, 2003, expires Nov. 6, 2003. Original rule filed May 1, 2003.

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 Office of the Secretary of State, Business Services Division, Trish Vincent, Deputy Secretary for Business Services, PO Box 778, 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.*