



**MISSOURI HIGHWAYS AND TRANSPORTATION
COMMISSION**

Official Minutes

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**MINUTES OF THE SPECIAL HIGHWAYS AND TRANSPORTATION COMMISSION
MEETING HELD BY ELECTRONIC BALLOT ON WEDNESDAY, APRIL 3, 2017**

A special meeting of the Missouri Highways and Transportation Commission was held by electronic ballot on Monday, April 3, 2017, to consider final notice for administrative rules. The meeting was called pursuant to Section 226.120 of the Revised Statutes of Missouri, as amended. The Secretary verified that notice of the meeting was posted in keeping with Section 610.020 of the Revised Statutes of Missouri, as amended.

The following members of the Commission submitted ballots: Chairman Michael B. Pace, Vice-Chairman Gregg C. Smith, Michael T. Waters, Jr., and John W. Briscoe. Mary E. Nelson did not submit a ballot. On January 30, 2017 Governor Eric Greitens withdrew the appointment of Commissioner Edward D. Hillhouse; at the time of the April 3, 2017 meeting, a replacement had not been appointed.

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*“Department” or “MoDOT” herein refers to Missouri Department of Transportation.
“Commission” or “MHTC” herein refers to Missouri Highways and Transportation Commission.*

-- OPEN MEETING --

CONSENT AGENDA

Consent Agenda Process

In order to make the most efficient use of Commission meeting time and to ensure Commission members are well informed on issues requiring their action, staff prepares and submits to the Commission members, in advance of their meeting, internal memoranda consisting of advice, opinions, and recommendations related to the items of the Commission meeting agenda. Those items considered by staff to be of a routine or non-controversial nature are placed on a consent agenda. During the meeting, items can be removed from the consent agenda at the request of any one Commission member. The items that are not removed from the consent agenda are approved with a single motion and unanimous vote by a quorum of the members.

Minutes reflecting approval of items on the consent agenda are singly reported herein and intermingled with minutes reflecting action on related subjects that were openly discussed. Reference to “consent agenda” is made in each minute approved via the process described in the paragraph above. Minutes reflecting action on items removed from the consent agenda and openly discussed reflect the open discussion and vote thereon.

Consideration of April 3, 2017, Consent Agenda

No items were removed from the consent agenda. Via electronic ballots received by the Secretary to the Commission, the Commission approved the consent agenda as submitted.

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REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING – MOTOR CARRIER SERVICES ADMINISTRATION

On behalf of the Director, Scott Marion, Motor Carrier Services Director, presented the final order of rulemaking for Motor Carrier Services Administration. In 2002 statutory and administrative rule authority to administer Missouri's motor carrier licensing and safety enforcement programs was transferred from the Department of Economic Development – Motor Carrier and Railroad Safety Division to the Commission and MoDOT. Following this transfer of responsibility, a practical strategy occurred of only moving rules as needed from Title 4 of the Code of State Regulations that is under the Department of Economic Development to Title 7 which is under the Commission. Consequently, there remained several rules under Title 4 which need to move to Title 7.

At the October 12, 2016 meeting, the Commission authorized the filing and publication of the proposed amendments (7 Code of State Regulations (CSR) 10-1.020, 7 CSR 265-10.017, and 7 CSR 265-10.051) and proposed rescissions (4 CSR 265-2.020, 4 CSR 265-2.040, 4 CSR 265-2.067, 4 CSR 265-2.069, 4 CSR 265-2.160, 4 CSR 265-2.170, 4 CSR 265-2.200, 4 CSR 265-6.030 and 4 CSR 265-14.010) to the administrative rules. The proposed amendments and proposed rescissions were published in the *Missouri Register* on November 15, 2016, and no comments were received during the thirty (30) days following the publication.

Governor Greitens' Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor's Office for its review and approval. The proposed rules were submitted to the Governor's Office on March 28, 2017. MoDOT received a letter from the governor's Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Motor Carrier Services Administration. After consideration, the Commission, via approval of the consent agenda, unanimously

approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING –
MOTOR CARRIER SERVICES INTERSTATE OPERATIONS**

On behalf of the Director, Scott Marion, Motor Carrier Services Director, presented the final order of rulemaking for Motor Carrier Services Interstate Operations. The proposed changes incorporated-by-reference materials require updated publication dates; provided clarification of several definitions and tax language; required an update to align with Motor Carrier Services’ current practice of reducing the reporting burden from quarterly to annually for those who travel fewer than 5,000 interstate miles per year; and clarified consequences of flagrant or repeated violations of motor carrier credentials

At the October 12, 2016 meeting, the Commission authorized the filing and publication of the proposed amendments (7 CSR 10-25.030, 7 CSR 10-25.070, 7 CSR 10-25.072, and 7 CSR 10-25.080) to the administrative rules. The proposed amendments were published in the *Missouri Register* on November 15, 2016, and no comments were received during the thirty (30) days following the publication.

Governor Greitens’ Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor’s Office for its review and approval. The proposed rules were submitted to the Governor’s Office on March 28, 2017. MoDOT received a letter from the governor’s Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Motor Carrier Services Interstate

Operations. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING –
MOTOR CARRIER SERVICES INTRASTATE OPERATIONS**

On behalf of the Director, Scott Marion, Motor Carrier Services Director, presented the final order of rulemaking for Motor Carrier Services Intrastate Operations. The proposed changes removed several obsolete programs and references; updated to reflect current processes; and removed obsolete procedures and provisions which no longer match contemporary practices.

At the October 12, 2016 meeting, the Commission authorized the filing and publication of the proposed amendments (7 CSR 265-10.052, 7 CSR 265-10.015, and 7 CSR 265-10.140) and the proposed rescissions (4 CSR 265-2.057, 4 CSR 265-2.065, 7 CSR 265-10.055, and 7 CSR 265-10.090) to the administrative rules. The proposed amendments and proposed rescissions were published in the *Missouri Register* on November 15, 2016, and no comments were received during the thirty (30) days following the publication.

Governor Greitens’ Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor’s Office for its review and approval. The proposed rules were submitted to the Governor’s Office on March 28, 2017. MoDOT received a letter from the governor’s Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Motor Carrier Services Intrastate

Operations. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING –
MOTOR CARRIER SERVICES OVERSIZE OVERWEIGHT LOADS**

On behalf of the Director, Scott Marion, Motor Carrier Services Director, presented the final order of rulemaking for Motor Carrier Services Oversize Overweight Loads. The proposed amendment provided updates to comply with federal law, removed obsolete information and procedures, clarified certain provisions and updated current practices and configurations.

At the October 12, 2016 meeting, the Commission authorized the filing and publication of the proposed amendment 7 CSR 10-25.020, which governs oversized overweight loads, to the administrative rules. The proposed amendment was published in the *Missouri Register* on November 15, 2016, and no comments were received during the thirty (30) days following the publication.

Governor Greitens' Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor's Office for its review and approval. The proposed rules were submitted to the Governor's Office on March 28, 2017. MoDOT received a letter from the governor's Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Motor Carrier Services Oversize Overweight Loads. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to

file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING –
MOTOR CARRIER SERVICES SAFETY AND COMPLIANCE**

On behalf of the Director, Scott Marion, Motor Carrier Services Director, presented the final order of rulemaking regarding Motor Carrier Services rules governing safety and compliance actions. The proposed amendments changed to the Skills Performance Evaluation (SPE) Certificates for Commercial Drivers; removed sections that duplicated federal law; updated the rule with incorporated-by-reference information; removed a reference to a federal regulation that is no longer accurate and tightened a reference to a specific subpart within the federal motor carrier safety regulations.

At the October 12, 2016 meeting, the Commission authorized the filing and publication of the proposed amendments (7 CSR 10-25.010 and 7 CSR 265-10.025) and the proposed rescission (7 CSR 10-2.030), to the administrative rules. The proposed amendments and proposed rescission were published in the *Missouri Register* on November 15, 2016, and no comments were received during the thirty (30) days following the publication.

Governor Greitens' Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor's Office for its review and approval. The proposed rules were submitted to the Governor's Office on March 28, 2017. MoDOT received a letter from the governor's Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Motor Carrier Services Safety and Compliance. After consideration, the Commission, via approval of the consent agenda, unanimously

approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING – DRIVER IMPROVEMENT PROGRAM

On behalf of the Director, Bill Whitfield, Highway Safety Director, presented the final order of rulemaking regarding Driver Improvement Program, which included language to clarify and strengthen the rules.

At the October 12, 2016 meeting, the Commission authorized the filing and publication of the proposed amended administrative rulemaking 7 CSR 60-3.010, Driver Improvement Program Rulemaking, which included language to recognize the Department as the appropriate agency to administer the rule and to incorporate the standards set forth in the National Safety Council’s eight-hour “Defensive Driving Course.” The proposed amendments were published in the *Missouri Register* on November 15, 2016, and no comments were received during the thirty (30) days following the publication.

Governor Greitens’ Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor’s Office for its review and approval. The proposed rules were submitted to the Governor’s Office on March 28, 2017. MoDOT received a letter from the governor’s Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Driver Improvement Program. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final

order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING –
MOTORCYCLE SAFETY EDUCATION PROGRAM**

On behalf of the Director, Bill Whitfield, Highway Safety Director, presented the final order of rulemaking regarding Motorcycle Safety Education Rulemaking, which included language to clarify and strengthen the rules.

At the October 12, 2016 meeting, the Commission authorized the filing and publication of the proposed amendments (7 CSR 60-1.01, 7 CSR 60-1.020, 7 CSR 60-1.030, 7 CSR 60-1.050, and 7 CSR 60-1.060), to the administrative rules. The proposed amendments were published in the *Missouri Register* on November 15, 2016, and two comments were received during the thirty (30) days following the publication.

Governor Greitens' Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor's Office for its review and approval. The proposed rules were submitted to the Governor's Office on March 28, 2017. MoDOT received a letter from the governor's Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Motorcycle Safety Education Program. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary

of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING –
ARBITRATION AND MEDIATION OF CONSTRUCTION DISPUTES**

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the final order of rulemaking regarding arbitration and mediation of construction disputes, which changed the title of the rule and clarified the existing claims process and procedures will be used.

At the December 6, 2016 meeting, the Commission authorized the filing and publication of the proposed amended administrative rulemaking 7 CSR 10-26.010 and 7 CSR 10-26.020, Arbitration and Mediation of Construction Disputes Rulemaking, which amends the rules to reflect current statutory requirements and processes, and be as clear and concise as possible without redundancy. The proposed amendments were published in the *Missouri Register* on January 17, 2017, and no comments were received during the thirty (30) days following the publication.

Governor Greitens' Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor's Office for its review and approval. The proposed rules were submitted to the Governor's Office on March 28, 2017. MoDOT received a letter from the governor's Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Arbitration and Mediation of Construction Disputes. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant

Chief Engineer to execute documents to complete the final rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING –
CONTRACTOR PERFORMANCE RATING TO DETERMINE RESPONSIBILITY**

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the final order of rulemaking regarding contractor performance rating to determine responsibility.

At the December 6, 2016 meeting, the Commission authorized the filing and publication of the proposed amended administrative rulemaking 7 CSR 10-10.010, 7 CSR 10-10.020, 7 CSR 10-10.030, 7 CSR 10-10.040, 7 CSR 10-10.050, and 7 CSR 10-10.070, Contractor Performance Rating to Determine Responsibility Rulemaking, which amends the rules to reflect current statutory requirements and processes, clarify the composition of the Contractor Performance Review Committee, and other aspects of the contractor performance rating process, and be as clear and concise as possible without redundancy. The proposed amendments were published in the *Missouri Register* on January 17, 2017, and no comments were received during the thirty (30) days following the publication.

Governor Greitens' Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor's Office for its review and approval. The proposed rules were submitted to the Governor's Office on March 28, 2017. MoDOT received a letter from the governor's Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Contractor Performance Rating to Determine Responsibility. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant

Chief Engineer to execute documents to complete the final rulemaking process.

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REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING – CONTRACTOR PREQUALIFICATION

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the final order of rulemaking regarding contractor prequalification, which is required to be updated to reflect the department's current business practices.

At the December 6, 2016 meeting, the Commission authorized the filing and publication of the proposed amended administrative rulemaking 7 CSR 10-15.010, Contractor Prequalification Rulemaking, which amends this rule to correct division head titles and that only electronic bids will be accepted, and be as clear and concise as possible without redundancy. The proposed amendments were published in the *Missouri Register* on January 17, 2017, and no comments were received during the thirty (30) days following the publication.

Governor Greitens' Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor's Office for its review and approval. The proposed rules were submitted to the Governor's Office on March 28, 2017. MoDOT received a letter from the governor's Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Contractor Prequalification. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING –
TECHNICIAN CERTIFICATION PROGRAM**

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the final order of rulemaking regarding technician certification program, which is required to be updated to reflect the department’s current business practices.

At the December 6, 2016 meeting, the Commission authorized the filing and publication of the proposed amended administrative rulemaking 7 CSR 10-23.010, 7 CSR 10-23.020, and 7 CSR 10-23.030, Technician Certification Program Rulemaking, which amends the rules to reflect current statutory requirements and internal processes, and be as clear and concise as possible without redundancy. The proposed amendments were published in the *Missouri Register* on January 17, 2017, and no comments were received during the thirty (30) days following the publication.

Governor Greitens’ Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor’s Office for its review and approval. The proposed rules were submitted to the Governor’s Office on March 28, 2017. MoDOT received a letter from the governor’s Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Technician Certification Program. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING – CONTRACTOR DISQUALIFICATION FOR MISCONDUCT

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the final order of rulemaking regarding contractor disqualification for misconduct, which is required to be updated to reflect the department's current business practices.

At the December 6, 2016 meeting, the Commission authorized the filing and publication of the proposed amended administrative rulemaking 7 CSR 10-18.010, 7 CSR 10-18.030, 7 CSR 10-18.040, 7 CSR 10-18.070, and 7 CSR 10-18.090, Contractor Disqualification for Misconduct, which amended the rules to reflect current statutory requirements and processes; define the review board for disqualification; add a proposed disqualification time period to the disqualification notice; clarify that no appeal will be considered when a proposed action is based upon a conviction, judgment, admission or debarment or other declaration of ineligibility by another state, political subdivision, or federal entity; and be as clear and concise as possible without redundancy. The proposed amendments were published in the *Missouri Register* on January 17, 2017, and one comment was received during the thirty (30) days following the publication.

Governor Greitens' Executive Order 17-03 requires state agencies, including the Commission and Department, to submit a copy of any proposed rulemaking to the Governor's Office for its review and approval. The proposed rules were submitted to the Governor's Office on March 28, 2017. MoDOT received a letter from the governor's Deputy General Counsel on March 31, 2017 that stated he approved the proposed rules.

The department supports this final order of rulemaking for Contractor Disqualification for Misconduct. After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary

of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

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The Mission of the Missouri Highways and Transportation Commission is to:

- Represent the citizens of Missouri pursuant to the Constitution by providing independent and nonpartisan governance of the Missouri Department of Transportation; and
- Establish policies, exercise oversight, and ensure accountability in developing and maintaining a world class transportation system in Missouri which fosters safety and economic development.

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