



## Missouri Highways and Transportation Commission Policies

**Category:** COMMISSION  
**Subcategory:** Policies and Administrative Rules

### ADMINISTRATIVE RULES (Code of State Regulations)

#### Specific Delegation of Authority

*The Missouri General Assembly, from time to time, includes provisions within specific statutes charging the Commission with the responsibility to file administrative rules for the purpose of implementing the related statute. In some instances filing such rules is required; in others the statutes authorize the Commission to file rules, but they are not mandated.*

#### General Authority for Commission to Promulgate Rules

*In addition, Section 227.030.2 RSMo empowers the Commission with the authority to make all final decisions and file all rules and regulations it may deem necessary in order to construct and maintain the highway system to the best interest and advantage of the people of the state.*

*The impetus for an administrative rule could include a change in federal law or rule, a change in state statute or rule, a directive of the Commission, a business need identified by the department, or a request from industry, customers, or business partners.*

*No such rules shall be inconsistent with the statutes. According to the Secretary of State's Office, all **rules and regulations have the same force and effect of law.***

#### Statutory Rule Process

*Because of the potential impact on Missouri citizens of rules promulgated by state agencies, **Missouri's** process for promulgating rules is quite extensive.*

- *Rules proposed by state agencies of the Executive Branch must be pre-filed with the Governor's office who will issue a letter of approval.*
- *All rules proposed by state agencies must be filed with Secretary of State, Small Business Regulatory Fairness Board, and the legislative Joint Committee on Administrative Rules on the same day.*
- *The proposed rules must then be published by the Secretary of State in the Missouri Register and the public allowed thirty days to provide comments thereon.*
- *All proposed rules must be posted to the agency's website pursuant to Section 536.016.3 RSMo within one business day of when such rule is published in the Missouri Register.*
- *Following the comment period, the proposed rules must be reconsidered by the respective state agency and, based on the public comments that are received, may be revised prior to submitting the **final order of rulemaking** for approval of the Joint Committee on Administrative Rules and ultimate publication by the Secretary of State in the Code of State Regulations.*
- *The effective date of each rule is determined by the Secretary of State and included with each rule and regulation.*

### **Staff Rule Development Process**

The Commission takes very seriously the potential effect of all administrative rules promulgated by federal and state agencies upon its citizenry, business interests, and other entities; therefore, the process for promulgating rules pertaining to the Department of Transportation shall include the following:

- Once a need to promulgate administrative rules is identified, MoDOT staff will review with the Commission the impetus, desired outcomes, and potential impacts.
- In order to be certain that potentially affected parties are aware of and understand the Commission's draft proposed rules AND to be certain that MoDOT staff is aware of and understand the potential impacts of those rules on the affected parties, the staff shall reach out to all known interested and affected parties and proactively work toward a mutual understanding prior to presenting draft proposed rules to the Commission for action thereon.
- A summary of statements or letters in support of, or opposition to, the promulgation of rules must accompany the staff recommendation.
- All proposed orders of rulemaking, final orders of rulemaking, and emergency rules shall be approved by the Commission prior to being filed with the Joint Committee on Administrative Rules and the Secretary of State.
- Subject to the provisions noted above, the Director is authorized to establish procedures for the department to follow when creating or modifying administrative rules.

Effective Date: October 3, 2018

Supersedes Policy Dated: October 15, 2014

Last Reaffirmed:

Date of Origin: November 7, 2013

Related Commission Minutes: November 7, 2013 – Comprehensive Policy Review, October 15, 2014-Revised. October 3, 2018 revised to include new gubernatorial office review.