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By Administrative Rules SOS at 9:03 am, Oct 04, 2024

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 4—Uniform Relocation Assistance**

EMERGENCY AMENDMENT

7 CSR 10-4.020 Relocation Assistance Program. The Missouri Highways and Transportation Commission is amending section (1).

PURPOSE: This emergency amendment incorporates the Missouri Department of Transportation's (MoDOT) revised Right of Way (ROW) Manual into this rule, which specifies that any Missouri Highways and Transportation Commission (Commission) and MoDOT initiation of negotiations (ION) to acquire real property, on and after June 3, 2024, that result in eligibility for relocation assistance benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URARPA Act) and the U.S. Department of Transportation-Federal Highway Administration (FHWA) June 3, 2024, final rule for property owners, tenants, and other displaced persons as a result of the proposed acquisition must entitle those displaced persons to the increased relocation assistance payment amounts approved by the FHWA June 3, 2024, final rule.

EMERGENCY STATEMENT: This emergency amendment adopts an updated MoDOT ROW Manual that informs persons and businesses displaced as a result of Commission and MoDOT acquisition of their real property of the increased relocation assistance benefit payment amounts to which such persons are entitled via the June 3, 2024, FHWA rule. The Commission and MoDOT find that this emergency amendment is necessary to preserve a compelling governmental interest that assures fairness to an estimated fourteen parties affected by this emergency rule, specifically persons (i.e., landowners, tenants, etc.) displaced from their residence, business, or farm due to the acquisition of real property for the construction, reconstruction, and maintenance of the state highway system authorized by the Missouri Constitution and state law. These fourteen displaced parties are entitled to the increased relocation assistance payments because ION occurred on and after June 3, 2024, and under the effective date of this emergency amendment. Also, it is anticipated that some of these property owners will rightfully choose to engage legal counsel to represent them in these acquisitions. This emergency rule would avoid potential unnecessary and expensive litigation of legal claims by these property owners seeking the increased relocation assistance payments. The emergency amendment addresses these immediate harms to displaced owners, tenants, and other person by ensuring such persons are able to receive the increased relocation assistance payments.

Another compelling interest for the emergency amendment is for the state of Missouri to retain its federal aid highway funds authorized for the relocation assistance program. If the Commission does not entitle persons to the increased relocation assistance benefit amounts directed under the June 3, 2024 final rule, then the State of Missouri may be found by FHWA to be in noncompliance with the URARPA Act. FHWA expects Missouri to pay the increased relocation assistance benefits authorized under the final rule for all ION on and after June 3, 2024. If the Commission and MoDOT do not follow the FHWA directive, then under the URARPA Act, specifically Title 42, United States Code Annotated, Section 4604(c), FHWA can find Missouri in non-compliance with the federal Uniform Relocation Assistance program laws. Such noncompliance authorizes FHWA

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By JCAR at 8:48 am, Oct 04, 2024

to withhold its approval of any federal financial assistance to the Commission and MoDOT for its Relocation Assistance program, and the state of Missouri would lose its federal aid highway funds. The emergency amendment addresses this immediate harm.

The emergency amendment is limited solely to incorporating the federal June 3, 2024, regulations that increased the relocation assistance payments for eligible, displaced persons in which the Commission and MoDOT has ION on and after June 3, 2024. MoDOT has determined there are fourteen such parcels that shall have ION during the effectiveness of the emergency amendment. Because ION either have already occurred, or will occur, during the effective period of this emergency amendment, but before a final, permanent amended rule will become effective, this emergency amendment is necessary. A proposed, permanent amendment to this rule, which covers the same material, will also be published in the Missouri Register.

The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Commission and MoDOT believe this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed October 4, 2024, effective November 1, 2024, and expires April 29, 2025.

(1) This rule adopts the department's Engineering Policy Guide, Category 236–Right of Way, Article 8, *Relocation Assistance Program*, which is incorporated herein by reference and made a part of this rule as published by the Missouri Highways and Transportation Commission, Design Division, 105 West Capitol Avenue, Jefferson City, MO 65102, [September 25, 2018]**September 16, 2024** Edition. This rule does not incorporate any subsequent amendments or additions.

*AUTHORITY: sections 226.150, 227.120, and 523.210, RSMo 2016; 42 U.S.C. Chapter 61; 23 CFR Part 710; and 49 CFR Part 24. * Original rule filed March 4, 1983, effective June 15, 1983. Rescinded and readopted: Filed Oct. 14, 1987, effective Jan. 14, 1988. Amended: Filed May 17, 1993, effective Jan. 31, 1994. Amended: March 14, 2007, effective Sept. 30, 2007. Amended: Filed Nov. 14, 2017, effective June 30, 2018. Amended: Filed Dec. 10, 2018, effective July 30, 2019. Emergency Rule filed Oct. 4, 2024, effective, Nov. 1, 2024, expires April 29, 2025. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

PUBLIC COST: This emergency amendment will cost state agencies or political subdivisions eighty-six thousand five hundred fifty dollars (\$86,550) in the time the emergency is effective.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.