

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highway and Transportation Commission
Chapter 5—Junkyards

PROPOSED AMENDMENT

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SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

7 CSR 10-5.010 Licensing of Junkyards. The Missouri Highways and Transportation Commission is amending sections (1), (4), (5), (7), (11), (12) and (15); deleting sections (2), (3), (6), (8), (9), (13) and (14); renumbering sections (4), (5), (7), (10) through (12), and (15); and deleting the form which follows the rule in the *Code of State Regulations*.

PURPOSE: This amendment removes rule language that duplicates language in Sections 226.650 to 226.720, RSMo; and removes unnecessary restrictive language.

[Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.]

(1) These rules *[shall]* **will** govern the issuance of licenses by the *[State]* **Missouri Highways and Transportation Commission (Commission)** for the establishment, operation and maintenance of junkyards along the interstate and primary highway system.

[(2) Definitions.

(A) The interstate system means that part of the national system of interstate and defense highways located in Missouri as officially designated by the State Highway Commission in accordance with Title 23 of the United States Code.

(B) The primary system means that portion of the highway system of this state officially designated by the State Highway Commission as being in the federal aid primary highway system.

(C) Junk means old or scrapped copper, brass, rope, rags, bottles, paper, trash, rubber debris, waste, or junk dismantled or wrecked automobiles or parts of those automobiles, iron, steel and other old or scrap ferrous or nonferrous material.

(D) Automobile graveyard means any establishment, area or place of business maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or parts of those vehicles.

(E) Junkyard means an establishment, area or place of business maintained, operated or used for the storing, keeping, buying or selling of junk or for the operation of an automobile graveyard, garbage dump or sanitary fill.

(3) No junkyard shall be established, operated or maintained within one thousand feet (1000') of the nearest right-of-way line of any interstate or primary highway in this state without a license first being obtained from the State Highway Commission of Missouri. The license must be displayed in a prominent location on the premises upon which the junkyard is located. Licenses are not transferable.]

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([4]2) Any person, firm, corporation or political subdivision desiring to continue to maintain and operate a junkyard within one thousand feet (1000') of the nearest right-of-way line of any interstate or primary highway and which is lawfully in existence on August 4, 1966 or any person desiring to establish, operate and maintain a junkyard, **which was not in existence on August 4, 1966**, within one thousand feet (1000') of the nearest right-of-way line of any interstate or primary highway *[shall]* **will** submit an application for a license, along with a fee of ten dollars (\$10), to the *[State Highway Commission's district engineer]* **Missouri Department of Transportation's (Department) authorized representative**, the application to be in the form prescribed by the *[State Highway]* Commission. **Licenses are not transferable.**

([5]3) A license will be issued by the *[State Highway]* Commission for the establishment, operation and maintenance of a *[new]* junkyard within one thousand feet (1000') of the nearest right-of-way line of any interstate or primary highway provided **the** junkyard is—

(A) Screened by natural objects, plantings, fences or other appropriate means so as to render it not visible from any traveled way of the highway involved;

(B) Located within an area which is zoned by authority of law for industrial use **or located within an area which has been determined by the Commission from actual land use to be an industrial or commercial area; and**

(C) Not visible from the right-of-way of any interstate or primary highway.*[: or]*

[(D) Located within an area which has been determined by the State Highway Commission from actual land use to be an industrial area.]

[(6) No license will be issued for the establishment, operation and maintenance of a new junkyard within one thousand feet (1000') of the nearest right-of-way line of any interstate or primary highway which does not comply with one (1) of the requirements in section (5).]

([7]4) A license will be issued by the *[State Highway]* Commission for the operation and maintenance of any junkyard within one thousand feet (1000') of the nearest right-of-way line of any interstate or primary highway, if that junkyard was lawfully in existence on August 4, 1966.

[(8) Any junkyard which, on August 4, 1966, is located within two hundred feet (200') of the nearest right-of-way line of any interstate or primary highway, and which is visible from the highway, and is not screened by a tight board fence or any other screening fence sufficient to screen the material kept in the junkyard from the view of persons using the highway on foot or in vehicle shall not be considered to be a junkyard lawfully in existence on August 4, 1966 and no license will be issued for the operation and maintenance of that junkyard except that this section shall not apply to junkyards located in any incorporated town, village or city which complies with local zoning laws.

(9) Every application submitted for the establishment, operation and maintenance of a new junkyard or the continued operation and maintenance of an existing junkyard shall be accompanied by a legal description of the land upon which the junkyard is or is to be established. The State Highway Commission may require the applicant to obtain a survey by a registered land surveyor of the land upon which the junkyard to be licensed is operated.]

(~~[10]~~5) Any license issued for the continued operation and maintenance of a junkyard lawfully in existence on August 4, 1966 will not permit the licensee to expand the junkyard operation or to store additional junk outside the licensed area.

(~~[11]~~6) All licenses issued pursuant to these rules ~~[shall]~~ **will** expire on the ~~[thirty-]~~first day of ~~[December]~~ **January** following the date of issue **of the license**.

(~~[12]~~7) Licenses may be **annually** renewed ~~[from year-to-year on the]~~**upon** payment of the required license fee **of ten dollars (\$10)** in advance. Any license ~~[which is permitted to]~~ **will** expire ~~[by the]~~ **upon** nonpayment of the required license fee **and** may not be renewed ~~[after that except upon application and a showing that the junkyard complies with the requirements for the establishment of a new junkyard as set out in section (5) of this rule].~~

[13) An annual fee of ten dollars (\$10), payable in advance, will be required for the issuance of all licenses for the operation of junkyards. In the event that the license period is less than one (1) year, a pro rata part of the annual fee computed from the first of the month immediately preceding the due date of the license will be charged. The fee shall be payable by cashier's check or money order, made payable to Director of Revenue, Credit State Road Fund. Cash will be accepted only at the district office. The fee and the application shall be submitted to the district office having jurisdiction over the area in which the junkyard is or is to be located.

(14) Any person applying for a license for the establishment, operation or maintenance of a junkyard on the basis that the junkyard is located in an area zoned for industrial use will be required to submit proof from the agency having charge of the enforcement of the zoning laws, ordinances or regulations in the area where the junkyard is located that the junkyard complies with the applicable zoning laws.]

(~~[15]~~8) A junkyard will not be considered as adequately screened under subsection (~~[5]~~3)(A) of this rule unless any fence used as a screen is of sufficient height and density to completely obstruct the view from the traveled portions of the highway into the area upon which the junkyard is operated or unless any plantings or natural growth consists of sufficient nondeciduous growth and is of a height and density that the contents of the junkyard are not visible from the traveled ways of the **interstate or primary** highway during all seasons of the year. In the event the screening of any junkyard is permitted to deteriorate so as to render it ineffective as a proper screen, the license will be revoked **and terminated**. Screening, whether by fence or vegetation, must surround all that part of the perimeter of the junkyard across which persons traveling upon the traveled ways of the **interstate or primary** highway would have a view of the junkyard area. It will be the responsibility of the licensee to properly repair and maintain the screening of the junkyard and in the event a screen or any portion of the screen deteriorates or is destroyed or damaged, or becomes ineffective, so as to render it inadequate as a proper screen, the license will be revoked and terminated unless proper steps are taken by the licensee to repair or replace the screen or make other adjustments within sixty (60) days after the receipt of written notice of violation from the ~~[district engineer of the State Highway Commission]~~ **department's authorized representative**. *[No license will be renewed if the screening has been permitted to deteriorate so as to render it ineffective as a proper screen, in which event that junkyard will be considered as unlawful under sections 226.700 and 226.710,*

RSMo.]

AUTHORITY: section 226.700, RSMo 1986. Original rule filed Aug. 5, 1966, effective Aug. 15, 1966. Amended: Filed September 8, 2017.*

**Original authority: 226.700, RSMo 1965.*

State ex rel. State Highway Commission v. Wiggins, 454 SW2d 899 (Mo. banc 1970). The statutory authority to promulgate reasonable rules and regulations given to the State Highway Commission does not include the authority to declare in section 7 of their rules (now covered by 7 CSR 10-5.010(8)) that the 200 foot distance between the right-of-way and the junkyard must be measured from the nearest edge of the right-of-way when the construction by the courts of that statute (section 229.180—repealed, and now covered by section 226.650) is otherwise, that is, within 200 feet from persons normally using the road.

Because of similarity of rules and statutes, see also section 226.650, RSMo (1986).

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 Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, Missouri 65102 or Pamela.Harlan@modot.mo.gov. 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.*