

**John R. Ashcroft**

Secretary of State  
Administrative Rules  
RULE TRANSMITTAL

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MAR 06 2020

SECRETARY OF STATE  
ADMINISTRATIVE RULES

COPY

Rule Number 7 CSR 10-25.010

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Megan Waters-Hamblin Phone (573) 526-4669 FAX (573) 526-3651

Email address Megan.Waters-Hamblin@modot.mo.gov

Data Entry Amy Glover Phone (573) 526-4143 FAX (573) 526-3651

Email address Amy.Glover@modot.mo.gov

Interagency mailing address 105 W. Capitol Avenue, PO Box 270, Jefferson City, MO 65102

TYPE OF RULEMAKING ACTION TO BE TAKEN

Emergency Rulemaking \_\_ Rule \_\_ Amendment \_\_ Rescission \_\_ Termination

Effective Date for the Emergency \_\_\_\_\_

Proposed Rulemaking \_\_ Rule X Amendment \_\_ Rescission

Rule Action Notice  In Addition  Rule Under Consideration

Request for Non-Substantive Change

Statement of Actual Cost

Order of Rulemaking \_\_ Withdrawal \_\_ Adopt \_\_ Amendment \_\_ Rescission

Effective Date for the Order \_\_\_\_\_

Statutory 30 days OR Specific date \_\_\_\_\_

Does the Order of Rulemaking contain changes to the rule text?  NO

YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory  
Fairness Board (DED) Stamp

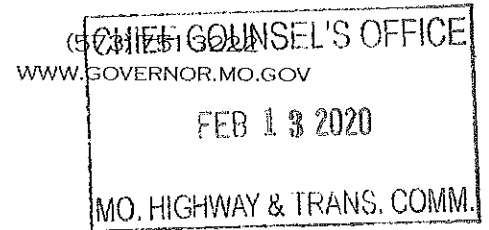
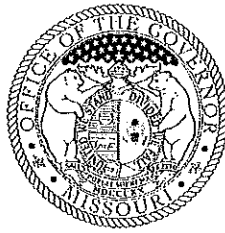
JCAR Stamp

JOINT COMMITTEE ON

MAR 06 2020

ADMINISTRATIVE RULES

STATE CAPITOL  
201 W. CAPITOL AVENUE, ROOM 216  
JEFFERSON CITY, MISSOURI 65101



*Michael L. Parson*

GOVERNOR  
STATE OF MISSOURI

February 10, 2020

John Cauwenbergh,  
Chief Counsel  
Missouri Department of Transportation  
105 W. Capitol Avenue  
Jefferson City, Missouri 65102

Dear John:

This office has received your proposed rulemaking for the following regulation:

- 7 CSR 10-25.010 Skill Performance Evaluation Certificates for Commercial Drivers

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, or adopt new regulations. After our review of this regulation, we approve the submission and regulatory impact report (if required) to JCAR and the Secretary of State.

Sincerely,

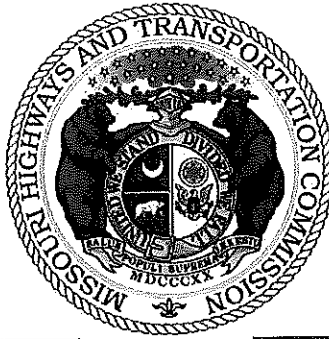
A handwritten signature in black ink, appearing to read "R. Conway".

Ryan P. Conway  
Special Counsel

PATRICK K. MCKENNA  
Director

PAMELA J. HARLAN  
Secretary to Commission

RICH TIEMEYER  
Chief Counsel



Chief Counsel's Office  
105 West Capitol Avenue  
P.O. Box 270  
Jefferson City, MO 65102  
(573) 751-7454  
Fax (573) 526-4408

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## MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

March 6, 2020

Ms. Waylene Hiles, Director  
Joint Committee on Administrative Rules  
Capitol Building  
Room B8  
Jefferson City, MO 65101

RE: Notice of Proposed Amended Rulemaking, 7 CSR 10-25.010, Skill Performance Evaluation Certificates for Commercial Drivers

Dear Ms. Hales:

Enclosed please find a letter certifying the Missouri Highways and Transportation Commission's approval, at its meeting held on March 4, 2020, to file notice of proposed amended rulemaking for rule 7 CSR 10-25.010, Skill Performance Evaluation Certificates for Commercial Drivers. Also enclosed is the text of the rulemaking.

We are filing the enclosed simultaneously with the Secretary of State's Office for publication in the *Missouri Register*.

Thank you for your attention to this matter. Should you have any questions or concerns, please contact me at (573) 526-4143.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amy Glover".

Amy Glover  
Senior Paralegal

Enclosures



*Our mission is to provide a world-class transportation system that is safe, innovative, reliable and dedicated to a prosperous Missouri.*

[www.modot.org](http://www.modot.org)

**DECLARATION  
OF PUBLIC COST**

I, Brenda Morris, Chief Financial Officer of the Missouri Department of Transportation, do declare that it is my opinion that the cost of proposed amended rule 7 CSR 10-25.010, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

*Brenda Morris*

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Brenda Morris  
Chief Financial Officer  
Missouri Department of Transportation

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation Commission  
Chapter 25—Motor Carrier Operations

PROPOSED AMENDMENT

COPY

**7 CSR 10-25.010 Skill Performance Evaluation Certificates For Commercial Drivers.** The Missouri Highways and Transportation Commission is amending sections (2), (3), (4), (6), subsections (1)(B), (1)(F), (1)(J), (4)(A), paragraphs (3)(C)2., (3)(C)3., and adding a new subsection (4)(C).

*PURPOSE: This amendment would allow persons with a hearing deficiency or impairment to apply and be considered for an exemption from the federal medical qualifications that require a minimum hearing level threshold in order to drive a commercial motor vehicle in intrastate commerce. The amendment would also incorporate by reference the most recent version of federal regulations related to skill performance evaluation and exemption certificates and would incorporate the latest version of the state application form and accompanying instructions for such certificates. The amendment would also clarify the medical professionals that may perform physical examinations.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

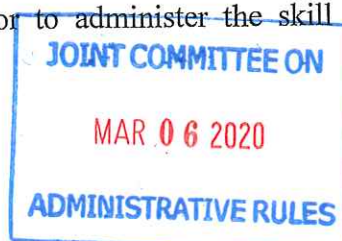
(1) Definitions and Substitutions. Except when the context clearly suggests otherwise, the words and terms used in this rule, or in any federal regulation incorporated by reference in this rule, shall have the meaning stated in this section.

(B) Whenever the term “commercial motor vehicle” is used in the federal regulation, the term shall include any motor vehicle, or the [operation]operator or driver of any motor vehicle, within the jurisdiction of the commission pursuant to the provisions of section 226.008, RSMo.

(F) **Except for subsection (4)(A) and section (6) of this rule,** [Whenever]whenever the term “exemption” is used in this rule [or has reference to 49 CFR part 381], the term “SPE certificate” shall be substituted for the term “exemption.” [With the exception of Subpart C, Section 381.315, the commission incorporates by reference in, and makes a part of this rule, the provisions of Title 49, CFR Part 381 as published by the United States Government Printing Office, 732 North Capitol Street NW, Washington DC 20401, on March 1, 2016. This rule does not incorporate any subsequent amendments or additions to 49 CFR Part 381. “SPE certificate” means a skill performance evaluation certificate, as defined in subsection 4 of section 622.555, RSMo.]

(J) **The word “SPE certificate” means a skill performance evaluation certificate as defined in subsection 4 of section 622.555, RSMo.** Publication of a Missouri Register notice of application for S[kill] P[erformance] E[valuation] Certificates [for Commercial Drivers] is not required.

(2) Delegation of Authority. The commission authorizes the director to administer the skill



performance evaluation program for intra-state drivers of commercial motor vehicles, as provided in sections **622.027 and 622.555**, RSMo, and this rule. The director, at his/her discretion, may delegate any part of this authority to other department personnel.

(3) Filing and Determination of Applications; Demonstration and Verification of Ability to Operate Commercial Motor Vehicles. Applications for an intrastate SPE certificate, and related documents, and information reasonably required by the director, shall be filed ~~[with the director of Motor Carrier Services,]~~ at PO Box 270, Jefferson City, MO 65102. Every application shall include all information and supporting documents required by section 622.555, RSMo, this rule, and the "Application for Skill Performance Evaluation Certificate." The application **and accompanying instructions** ~~[is]~~**are** incorporated herein by reference and made a part of this rule as published on ~~[October 12]~~**November 19, 201[6]8** by the Missouri Department of Transportation Motor Carrier Services Division, PO Box 270, Jefferson City, MO 65102. ~~[The application and related instructions approved by the director, and any additional information reasonably required by the director.]~~ This rule does not incorporate any subsequent amendments or additions of the application **and instructions**.

(C) At any time while an application is pending, or after the person is issued a SPE certificate, the director may require the person to demonstrate or verify the person's present ability to operate a commercial motor vehicle safely with his/her physical deficiency or impairment. These requirements may include:

1. Successfully completing a road test, using a commercial motor vehicle and associated equipment of the type which the applicant drives or seeks to drive pursuant to the SPE certificate;
2. Obtaining additional or periodic physical examinations by a ~~[physician]~~**physiatrist; orthopedic surgeon; audiologist, otolaryngologist; ophthalmologist;** or optometrist; and
3. Filing additional or periodic reports with the director concerning the person's medical, **hearing** or vision examinations, treatment, prognosis, employment, driving record, accidents, traffic violations, and other pertinent information.

(4) Physical Deficiencies. Persons who are physically unqualified to drive commercial motor vehicles pursuant to any provision of **Title 49, Code of Federal Regulations (CFR), section 391.41(b)** may apply for intrastate SPE certificates, and the director may issue intrastate SPE certificates to those applicants, only if—

(A) The Federal Motor Carrier Safety Administration (FMCSA) is currently administering a program for issuing SPE certificates, or exemptions from the physical qualification requirements, to interstate drivers who are physically unqualified because of the same physical deficiency or impairment affecting the applicant; **except that a FMCSA exemption from 49 CFR section 391.41(b)(8) will not authorize the issuance of a SPE certificate for Missouri intrastate operation; and**

(C) **With the exception of Subpart C, Section 381.315, the commission incorporates by reference, and makes a part of this rule, the provisions of Title 49, CFR Part 381 as published by the United States Government Printing Office, 732 North Capitol Street NW, Washington DC 20401, on October 1, 2018. The commission also incorporates by reference, and makes a part of this rule, the provisions of Title 49 CFR Subpart 391.41 as published by the United States Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401, on October 1, 2018. The commission also incorporates by reference, and makes a part of this rule, the provisions of Title 49 CFR Subpart 391.49 as published by the United States**

Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401, on October 1, 2018. This rule does not incorporate any subsequent amendments or additions to 49 CFR Part 381 Subpart 391.41, and Subpart 391.49.

(6) Federal Exemption or SPE Certification. Upon the filing of an application containing such information as the director may require, the director may waive any procedural requirements pursuant to this rule and shall issue an intrastate SPE certificate to any driver who is authorized to operate commercial motor vehicles in interstate commerce by a currently valid SPE certificate, or **hearing, or** vision exemption issued by the FMCSA. Each SPE certificate issued pursuant to this section shall be conditioned upon the driver's continued possession of the federal SPE certificate in good standing, and the driver's compliance with all applicable requirements, including all conditions specified in the driver's federal SPE certificate, and any other conditions imposed by the director.

*AUTHORITY: sections 226.008 and 622.555, RSMo 2016.\* Emergency rule filed June 6, 2003, effective June 16, 2003, expired Feb. 26, 2004. Original rule filed June 6, 2003, effective Dec. 30, 2003. Amended: Filed Oct. 14, 2016, effective July 30, 2017. Amended: Filed March 6, 2020.*

\*Original authority: 226.008, [RSMo 2002, amended 2014] **622.027**, and 622.555, RSMo [2002].

*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, MO 65102 or [Pamela.Harlan@modot.mo.gov](mailto: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.*