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SECRETARY OF STATE
ADMINISTRATIVE RULES

Title 7—DEPARTMENT OF TRANSPORTATION
Division 265—Motor Carrier and Railroad Safety
Chapter 9—Rail Fixed Guideway Systems

PROPOSED AMENDMENT

7 CSR 265-9.010 Applicability of Chapter; Definitions. The Missouri Highways and Transportation Commission is amending sections (1), (2), and subsections (2)(A), (2)(B), (2)(F), (2)(L), (2)(M), and (2)(O), deleting subsections (2)(D), (2)(E), (2)(G) through (2)(J), (2)(P), and (2)(R) through (2)(U), renumbering subsections (2)(A), (2)(B), (2)(C), (2)(K) through (2)(O) and (2)(Q), and adding new subsections (2)(A), (2)(C), and (2)(M).

PURPOSE: This proposed amendment removes eleven existing definitions, amends three existing definitions, adds three new definitions and incorporates the definitions in Title 49 United States Code (USC) 5329 and in Title 49 Code of Federal Regulations (CFR) Part 659 and Part 674.

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 will be maintained by the agency at its headquarters and will 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) Notwithstanding any provision within 7 CSR 265-8 to the contrary, rail fixed guideway systems (RFGS) as defined in [this rule] **Title 49 Code of Federal Regulations (CFR) Parts 659.5 and 674.7** shall be governed by the rules in this chapter, and not by the rules in 7 CSR 265-8. **The regulations in 49 CFR Parts 659.5 and 674.7 are incorporated herein by reference and made a part of this rule as published October 1, 2016 by the Federal Transit Administration, United States Department of Transportation, 1200 New Jersey Avenue, SE Washington, DC 20590. This rule does not incorporate any subsequent amendments or additions of these regulations.**

(2) As used in this chapter unless the context clearly requires otherwise, the following definitions and the definitions in Title 49 [Code of Federal Regulations (CFR) sections 659.5 and 659.15,] **CFR Parts 659 and 674 and Title 49 United States Code (USC) 5329**, which are incorporated by reference and made a part of this rule as published by the United States Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 on October 1, 20[0]16, **and March 15, 2016, respectively**, and this rule does not incorporate any subsequent amendments or additions to the CFRs and USC, apply:

(A) Commission. The Missouri Highways and Transportation Commission.

(A/B) Contractor. An entity that performs tasks required by 49 CFR [p]Part 659, on behalf of the rail fixed guideway system or the division. A rail fixed guideway system [shall] **may** not be a contractor for the division;

(C) Department. The Missouri Department of Transportation.

(B/D) Division. The Multimodal Operations Division within the Department of Transportation, which is authorized by the state Highways and Transportation Commission, as

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the State Safety and Security Oversight (SSO) agency for the state of Missouri. Whenever the term "division" is used within the rules in this chapter, the term *[the term shall be interpreted as meaning]* **it means** the Multimodal Operations Division;

(*C/E*) Employee. Any individual employed by a rail fixed guideway system for any period in any work for which s/he is compensated, whether full- or part-time, whose regular course of employment relates to the operation, inspection, maintenance, or construction of the physical rail fixed guideway system property or the operation of trains;

(*D*) Rail fixed guideway system (RFGS). Any light rail, as defined in section 386.020, RSMo; any street railroad, as defined in section 622.100, RSMo; or any heavy or rapid rail system, monorail, inclined plain, funicular, trolley, or automated guideway that 1) is not regulated by the Federal Railroad Administration; 2) is included in Federal Transit Administration's (FTA's) calculation of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas (49 United States Code (U.S.C.) 5336); or 3) has submitted documentation to FTA indicating its intent to be included in FTA's calculation of fixed guideway route miles to receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336);

(*E*) FRA. The Federal Railroad Administration, an agency within the United States Department of Transportation.]

(*F*) FTA. The Federal Transit Administra[*-*]tion, an agency within the United States Department of Transportation;

(*G*) Hazard. Any real or potential condition that can cause injury, illness, or death; damage to or loss of a system, equipment, or property; or damage to the environment;

(*H*) Highrail wheels. Any retractable flanged wheel assembly designed to allow a highway vehicle to operate on the track;

(*I*) Light rail. Every rail transportation system in which one or more rail vehicles are propelled electrically by overhead catenary wire upon tracks located substantially within an urban area and are operated exclusively in the transportation of passengers and their baggage, and including all bridges, tunnels, equipment, switches, spurs, tracks, stations, used in connection with the operation of light rail;

(*J*) Passenger. A person who is on board, boarding, or alighting from a rail transit vehicle for the purpose of travel;]

(*K/G*) Passenger operations. The period of time when any aspect of rail transit agency operations are initiated with the intent to carry passengers;

(*L/H*) Pedestrian grade crossing. A location where one (1) or more rail transit system tracks cross a public sidewalk or pathway used by pedestrians at grade;

(*M/I*) Rail-highway grade crossing. A location where one (1) or more rail transit system tracks cross a public highway, road, street or private roadway, and includes a pedestrian grade crossing[;]. **A rail-highway grade crossing does not include highway or pathway intersections on a street running rail transit system.**

(*N/J*) Rail transit agency. An entity that operates a rail fixed guideway system;

(*O/K*) Rail transit system. A rail fixed guideway system **(RFGS) in accordance with 49 CFR Part 659 and a rail fixed guideway public transportation system in accordance with 49 CFR Part 674;**

(*P*) Rail transit vehicle. A rail transit agency's rolling stock, including but not limited to passenger and maintenance vehicles;]

(*Q/L*) Security plan (SP). A document developed and adopted by the rail transit agency describing its security policies, objectives, responsibilities, and procedures;

(M) Street running rail transit system. A rail transit system in which the track(s) is embedded in a highway, road or street and which operates in one or more traffic lanes, either separate from or shared with vehicle traffic, and whose operation is subject to the applicable ordinances and traffic control devices for said public highway, road or street.

[(R) System safety program plan (SSPP). A document developed and adopted by the rail transit agency describing its safety policies, objectives, responsibilities, and procedures;

(S) System safety program standard, or "program standard." The policies, objectives, responsibilities, and procedures used to provide the rail transit agency safety and security oversight, which includes the SSO Manual and the rules contained within this chapter;

(T) State Safety and Security Oversight Programs Manual for Missouri Light Rail (the SSO Manual), which is incorporated herein by reference and made a part of this rule as published by the Missouri Highways and Transportation Commission, Multimodal Operations Division, 2217 St. Mary's Boulevard, Jefferson City, Missouri 65109, 2006 Edition. This rule does not incorporate any subsequent amendments or additions of this manual. The manual developed by the division is used to provide standards, procedures, and technical direction to rail fixed guideway systems in order to implement the Missouri state safety and security oversight program as authorized in sections 389.1005 and 389.1010, RSMo and 49 CFR part 659; and

(U) Train. Includes any light rail vehicle, on-track work equipment, railroad, or street railroad car or locomotive engine.]

AUTHORITY: sections 389.1005 and 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-9.010. Emergency rule filed Feb. 5, 1993, effective Feb. 15, 1993, expired June 14, 1993. Original rule filed Nov. 4, 1992, effective June 7, 1993. Emergency amendment filed Aug. 19, 1996, effective Aug. 29, 1996, expired Feb. 25, 1997. Emergency amendment filed Dec. 20, 1996, effective Dec. 30, 1996, expired June 27, 1997. Amended: Filed June 22, 1998, effective Feb. 28, 1999. Moved and amended: Filed: Nov. 20, 2006, effective June 30, 2007. Amended: Filed October 6, 2017.*

**Original authority: 389.1005, RSMo 1996 and 622.027, RSMo 1985, amended 1993, 1995.*

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. 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.*