

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

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SECRETARY OF STATE
ADMINISTRATIVE RULES

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PROPOSED AMENDMENT

7 CSR 265-9.020 [System Safety Program Plan and Security Plan]State Safety Oversight Agency Authorities and Requirements. The Missouri Highways and Transportation Commission is deleting sections (1) through (3), (5), and (6), adding new sections (1) through (5) and (7), renumbering section (4), and amending the rule title and section (4).

PURPOSE: This amendment changes the title of the rule and makes certain other changes to the rule due to the enactment of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and associated federal regulations.

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) The division incorporates by reference in this rule the 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, as the system safety program standard for rail fixed guideway systems (RFGSs) operating within the state, as supplemented by the rules in this chapter. This rule does not incorporate any subsequent amendments or additions of this manual.

(2) The division shall require every RFGS operating in this state to develop, adopt, and implement a system safety program plan (SSPP) which conforms to 49 Code of Federal Regulations (CFR) section 659.15, the SSO Manual, and the rules in this chapter. The division shall review and may approve the SSPP and security plan (SP) in accordance with the SSO Manual.

(3) The division shall require every RFGS operating in this state to develop, adopt, and implement a SP which conforms to 49 CFR sections 659.21 and 659.23, which shall address the personal security of RFGS passengers, employees, and other persons lawfully present on RFGS property. The SP must be developed and maintained as a separate document and may not be a part of the SSPP.]

(1) In accordance with its authority established in §389.1005 RSMo and the Designation Letter signed by the Governor of Missouri on June 12, 2017, the division is designated as the State Safety Oversight Agency (SSOA) per 49 United States Code (USC) 5239(e)(4).

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(2) The division is responsible for carrying out the responsibilities of an SSOA as set forth in the federal regulations and statute cited in this rule. The division adopts and enforces rules relating to the safe design, engineering, construction, testing, operation, and maintenance of Rail Fixed Guideway Systems (RFGS).

(3) The division incorporates by reference in this rule the full provisions of 49 *Code of Federal Regulations* (CFR) Part 659, 49 USC 5329, and 49 CFR Part 674, as published by the United States Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401 on October 1, 2016 and March 15, 2016, respectively. This rule does not incorporate any subsequent amendments or additions of the CFRs and USC.

(4) The SSOA is legally and financially independent from the overseen RFGS.

(5) The division retains the authority to access RFGS property in performance of SSOA duties, including to conduct investigations or to make announced or unannounced inspections.

([4]6) [The SP and any related d] Documents or information filed with this division by a RFGS under the provisions of this chapter may be closed to public inspection by the RFGS, or by the division as deemed necessary to prevent or mitigate breaches of security. The closure to public access, in whole or in part, of *[these security provisions, and related]* documents or information, *[shall]* does not preclude the division or its authorized personnel from inspecting and copying these provisions, documents and information, as otherwise provided by law or by the rules of the highways and transportation commission or orders of the division.

(7) Every RFGS shall meet or exceed the FTA's alcohol and controlled substances testing requirements under 49 CFR Part 655, which are incorporated herein by reference and made a part of this rule as published October 1, 2016 by the FTA, 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.

[(5) Every RFGS that begins passenger operations after January 1, 2007, shall file two (2) copies of its SSPP and SP with the division not less than one hundred eighty (180) days before starting passenger operations. The division shall review the SSPP and SP for compliance with the SSO Manual. Such review shall include a checklist to conduct the review. If the division determines the SSPP and SP comply with the SSO Manual, the division shall issue a formal letter of approval.

(6) Every RFGS, and its officers, employees, contractors, and agents shall comply with all applicable provisions contained within its SSPP and SP filed with, and approved by, the division, and with all applicable provisions of the SSO Manual.]

AUTHORITY: sections 389.1005 and 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-9.020, RSMo 2000. Original rule filed Nov. 4, 1992, effective June 7, 1993. 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.*