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SECRETARY OF STATE  
ADMINISTRATIVE RULES

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Title [4]7—DEPARTMENT OF [ECONOMIC DEVELOPMENT]TRANSPORTATION  
Division 265—[Division of] Motor Carrier and Railroad Safety  
Chapter 8 [2]—Railroads [Practice and Procedure]

PROPOSED AMENDMENT

[4]7 CSR 265-[2.010]8.005 **Definitions.** The Missouri Highways and Transportation Commission is moving the rule to Title 7, amending the purpose statement, deleting sections (1), (2), (4), (6), (10), (12), and (16) through (19), amending sections (3), (5), (7), (8), (9), (11) and (13) through (15), adding new sections (2), (4), (8), (13), and (14), and renumbering sections(3), (5), (7), (8), (9), (11), and (13) through (15).

*PURPOSE: This amendment moves the rule from Title 4 to Title 7, removes those definitions or parts of definitions solely relating to Motor Carriers, clarifies some existing definitions and adds new definitions relating to railroads.*

*[defines terms used in the rules comprising 4 CSR 265-2 Practice and Procedure.*

*Editor's Note: The following material is incorporated into this rule by reference:*

*1) Missouri Division of Transportation, **Single State Registration System (SSRS) Procedures Manual** (Jefferson City, MO: Department of Economic Development Revised July 1, 1994);*

*2) Section 4005 of Title IV of Public Law 102-240 (49 U.S. Code 11506) (Washington: U.S. Government Printing Office, 1993).*

*In accordance with section 536.031(4), RSMo, the full text of material incorporated by reference will be made available to any interested person at the Office of the Secretary of State and the headquarters of the adopting state agency.]*

*[(1) Administrative law judge means one of the administrative law judges appointed to the division.]*

*[(2) Administrative law judge section means the section of the division consisting of the three (3) administrative law judges, acting together or independently.]*

*[(3]1) Applicant - [means] any person on whose behalf application is made before the division for permission or authorization which the division is empowered to grant under its statutory or other delegated authority.*

**(2) Commission—the Missouri Highways and Transportation Commission, a state agency created by statute and vested with authority by Article IV, Section 29, Missouri Constitution.**

*[(4) Complainant means any person, corporation or municipality on whose behalf a complaint is filed with the division.]*

*[(5] 3) Corporation - [includes] a corporation, company, association or joint stock association, or limited liability company.*

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*[(6) Counsel means the counsel to the division and includes all deputies and assistants.]*

**(4) Department-the Missouri Department of Transportation.**

*[(7)5] Director – [means the chief administrative officer of the division.] **the director of the Multimodal Operations Division of the Department of Transportation.***

*[(8)6] Division – [means the Division of Transportation as created by Chapter 622, RSMo.] **the Multimodal Operations Division within the Department of Transportation.***

*[(9)7] Division staff - [means all division personnel other than those individuals assigned to the administrative law judge section.] **personnel of the Railroad Section of the Multimodal Operations Division.***

**(8) Federal Railroad Administration (FRA)-an agency within the United States Department of Transportation.**

*[(10) Intervenor means a person petitioning to intervene before the division, either in support of or in opposition to the relief being requested, and who is granted the right to participate as a party.]*

*[(11)9] Municipality – [includes] a city, town, village, county or other political subdivision.*

*[(12) Participant without intervention means any person allowed by the division to take part in a proceeding before it without formal intervention or designation as a party.]*

*[(13)10] Partnership - [is] an association of two (2) or more persons to carry on as co-owners a business for profit and includes a registered limited liability partnership.*

*[(14)11] Party - [includes] any applicant, complainant or respondent and any person having intervened in proceedings before the division.*

*[(15)12] Person - [includes] any individual, business entity or governmental entity.*

*[(16) Pleading means any application, complaint, petition, answer, protest or motion made to the division, including any appendices, documents and exhibits attached to or incorporated by reference in the pleading.]*

**(13) Private crossing-a highway-rail or pathway crossing, either at-grade or grade separated, that is not a public crossing because the crossing is privately owned and intended for use solely by the owner and/or the owner's licensees and invitees.**

**(14) Public crossing-a highway or pathway that crosses one or more railroad tracks, either at-grade or grade separated, where the highway/pathway approaches to the crossing are under the jurisdiction of and maintained by a public authority and open to public travel. All of the approaches must be under the jurisdiction of the public authority and no**

**approach may be located on private property.**

*[(17) Respondent means any person against whom any complaint is filed or to whom an order or notice is issued by the division on its own initiative instituting a proceeding or an investigation.]*

*(18) Shipper means the person who controls the transportation provided by a carrier, and refers to the actual shipper rather than an intermediary. The shipper may be nominally either the consignor or consignee, but must be one or the other. The payment of the charges for the transportation is evidence that the person who pays is the person who controls the transportation, and the person who pays is presumed to be the shipper. However, this presumption is rebuttable, and can be rebutted by evidence demonstrating that a person not paying the transportation charges actually controls the selection of the carrier and the routing of the shipment, who would be presumed to be the shipper in such an instance.*

*(19) Single State Registration System (SSRS) Procedures Manual means the procedures manual for the registration of interstate motor carrier operations in this state under the authority of the Interstate Commerce Commission (ICC), which implements the SSRS under Section 4005 of Title IV of P.L. 102-240 (49 U.S.C. 11506), and which is adopted by the division.]*

*AUTHORITY: section 622.027, RSMo 1994. \* Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed July 31, 1986, effective Oct. 27, 1986. Amended: Filed Nov. 4, 1992, effective July 8, 1993. Emergency amendment filed Dec. 1, 1994, effective Dec. 11, 1994, expired Dec. 19, 1994. Emergency amendment filed Dec. 20, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency amendment filed April 20, 1995, effective May 1, 1995, expired Aug. 28, 1995. Emergency amendment filed Aug. 18, 1995, effective Aug. 29, 1995, expired Feb. 24, 1996. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency amendment filed Aug. 16, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Amended: Filed March 9, 2018.*

*\*Original authority: 622.027, RSMo 1985, 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 (\$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.*