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

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PROPOSED AMENDMENT

SECRETARY OF STATE
ADMINISTRATIVE RULES

[4]7 CSR 265-8.010 **Accidents**. The Missouri Highways and Transportation Commission is moving the rule to Title 7 and amending sections (1), (2), and (3), subsections (1)(A), (1)(C), (2)(A) and (2)(B).

PURPOSE: This amendment moves the rule from Title 4 to Title 7, incorporates the federal definition of hazardous material into the rule, specifies when a railroad shall provide notice of an accident, updates and incorporates the reference to federal regulations for hazardous material reporting and accident reporting consistent with such federal regulations, and eliminates unnecessary restrictive wording.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Every railroad and street railroad corporation engaged in business in this state is [ordered] to give notice to this division of railroad accidents **and incidents** as set forth in this rule.

(A) The division will be furnished with prompt telephone notice, twenty-four (24) hours a day for the following accidents/incidents:

1. Hazardous material incident. **For the purposes of this rule, the term hazardous material has the same meaning as found in Title 49, Code of Federal Regulations (CFR), Part 171.8, which is incorporated herein by reference and made a part of this rule as published October 1, 2016 by the Pipeline and Hazardous Materials Safety 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 this rule. [At the earliest practicable moment, each carrier who transports hazardous materials shall give notice, in accordance with subsection (1)(C) of this rule, after each] Each incident that occurs during the course of transportation of hazardous materials (including loading, unloading and temporary storage) in which as a direct result of hazardous materials—**

F. A situation exists of a nature that, in the judgment of the carrier, it should be reported in accordance with subsection (1)(C) of this rule even though it does not meet the criteria of subparagraphs A., B., or C., of this paragraph 1. [(1)(A)1.A., B. or C. of this rule], for example, a continuing danger to life exists at the scene of the incident;

(C) Reports made in accordance with subsections (1)(A) and (B) of this rule [will] are to—

1. Be made to the [Railroad Safety Section] **division** at (573) 751-4291; and

(2) [A] **Written Accident Report Prepared [of the Accident Shall Be Prepared by the Railroads or Street Railroads].**

(A) Each railroad or street railroad which submits a report of Hazardous Materials Incident in

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accordance with paragraph (1)(A)1. of this rule shall file a copy of the report made to the United States Department of Transportation as required in 49 CFR 171.16 *[which is incorporated by reference in this rule,]* to the **division** within the same time period as prescribed by the United States Department of Transportation. **49 CFR 171.16 is incorporated herein by reference and made a part of this rule as published October 1, 2016 by the Pipeline and Hazardous Materials Safety 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 this rule.**

(B) Each railroad or street railroad shall submit to the division a monthly report of all accidents which must be reported to the United States Department of Transportation *[and shall include]* **that includes** all other accidents at grade crossings involving rolling equipment of which the railroad has knowledge. The form of these reports shall be the same forms as required by the United States Department of Transportation*[. The monthly reports of accidents shall be]* and prepared in accordance with the Federal Railroad Administration (FRA) Guide for Preparing Accident/Incident Reports, which is **hereby** incorporated by reference *[in this rule]* and **made a part of this rule as published May 23, 2011 by the Federal Railroad 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 this guide.**

(3) *[The]*Upon division request, the details of any accident or delay to traffic not specifically provided for in this rule*[, upon request,]* shall be **immediately** furnished to the **division** *[immediately]* by the *[common carrier]* **railroad or street railroad corporation.**

AUTHORITY: section 622.027, RSMo Supp. 1997. 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 April 16, 1986, effective June 30, 1986. Amended: Filed May 2, 1991, effective Dec. 9, 1991. Amended: Filed June 22, 1998, effective Feb. 28, 1999. Amended: Filed March 9, 2018.*

**Original authority: 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.