

Chapter 741 Department of Transportation, Rail Division

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DIVISION 20

STANDARDS TO DETERMINE PROJECT ELIGIBILITY AND APPLICATION PROCEDURES FOR GRANTS OR LOANS UNDER THE INDUSTRIAL SPUR PROGRAM

741-020-0010

Purpose

Chapter 741, Oregon Laws 2003 created the Industrial Rail Spur Fund, allowing for the issuance of lottery bonds to for the purpose of financing grants and loans to fund industrial rail spurs. The purpose of division 20 rules is to establish the Industrial Spur Track Program for the distribution of the funds as well as procedures, standards and criteria for its operation.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 367.070 & Sec. 10, Ch. 741 OL 2003

Hist.: RD 3-2004, f. & cert. ef. 5-20-04

741-020-0020

Definitions

For the purposes of division 20 rules, the following terms shall have the following definitions, unless the context clearly indicates otherwise:

(1) "Approved Project" means a Project that the Department has determined will receive funding through either a grant or loan from the Industrial Spur Rail Fund.

(2) "Department" is as defined in ORS 184.610(2).

(3) "Director" is as defined in ORS 184.610(3).

(4) "Industrial Spur Track" means a segment of trackage used for the rail transportation of raw materials and finished products between manufacturing facilities and mail line rails or that serves a transloading, reloading and teaming facility.

(5) "Program" means the Industrial Spur Track Program established by division 20 rules to administer the Industrial Rail Spur Fund.

(6) "Program Funds" means the money appropriated by the Legislature to the Industrial Spur Fund. These funds may be used as either grants or loans to eligible projects.

(7) "Project" means installation and/or upgrading of industrial spur track. A Project may also include the upgrade of trackage at an industrial facility to handle 286,000-pound GWR rail car shipments or the installation and/or upgrade of trackage that is adjacent to the project and is necessary for the proposed project to function properly.

(8) "Railroad" as is defined in ORS 824.020.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 367.070 & Sec. 10, Ch. 741 OL 2003

Hist.: RD 3-2004, f. & cert. ef. 5-20-04

741-020-0025

Application Submission Periods

(1) The Department will announce periods for submitting applications for funding from the Industrial Rail Spur Fund, as funding is available.

(2) Project applications will be reviewed for compliance with the requirements in OAR 741-020-0040 and as prescribed in 741-020-0050.

(3) Projects not funded may be resubmitted during application submission periods prescribed by the Department.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 367.070 & Sec. 10, Ch. 741 OL 2003

Hist.: RD 3-2004, f. & cert. ef. 5-20-04

741-020-0030

Application Requirements

Persons or entities interested in receiving funds from the Industrial Rail Spur Fund may submit to the Department a written application. The application shall be in a format prescribed by the Department and shall contain or be accompanied by such information as the Department may require.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 367.070 & Sec. 10, Ch. 741 OL 2003

Hist.: RD 3-2004, f. & cert. ef. 5-20-04

741-020-0040

Application Review and Approval

Upon receipt of an application the Department shall determine whether the Project is eligible for Program Funds. Projects that meet the following criteria are eligible:

(1) The applicant is a railroad doing business within the state of Oregon; a public jurisdiction within the state of Oregon; a company, foreign or domestic, incorporated or registered with the Oregon Secretary of State to do business within the state of Oregon.

(2) The Project will assist in developing a system of industrial rail spur tracks that supports state and local government efforts to attract new industries to Oregon or that keeps and encourages expansion of existing industries.

(3) The Project will serve the public good and would benefit from the provision of public assistance.

(4) The Project is not a replacement for an industrial spur track that would have been constructed without public assistance.

(5) The project will not require or rely upon continuing subsidies from the Department.

(6) The applicant is current on all state and local taxes, fees and assessments.

(7) If the Project is not eligible, the Department shall, within 30 days:

(a) Reject the application; or

(b) Specify the additional information the applicant must provide to establish eligibility.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 367.070 & Sec. 10, Ch. 741 OL 2003

Hist.: RD 3-2004, f. & cert. ef. 5-20-04

741-020-0050

Project Funding Priorities

The Department shall consider the following in its determination of which eligible Projects will be approved for receipt of funds from the Industrial Rail Spur Fund:

(1) The amount of funding available.

(2) Whether the Project will facilitate creation of new jobs and capital investment or the retention of existing jobs and capital investment that would otherwise be lost to Oregon.

(3) Whether the Project leverages other development efforts by the state or other government units.

(4) Supportive documents from the industry(s) and the railroad indicating the number of new carloads expected to be created within the first three years after construction of the project.

(5) Whether the Project facilitates the retention and/or creation of jobs in economically distressed areas of the state.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 367.070 & Sec. 10, Ch. 741 OL 2003

Hist.: RD 3-2004, f. & cert. ef. 5-20-04

741-020-0060

Grant Awards and Match

(1) Grant awards shall not exceed 75% of the total Project costs. Loans may be for the full amount of the project. In no case, shall any one project receive more than 50% of the funds available

to the Program.

(2) Any required local share of a project grant can be cash, or a combination of cash and in-kind services.

(3) Grants and loans will be awarded only when there are sufficient funds available to cover the costs of the loans and grants.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 367.070 & Sec. 10, Ch. 741 OL 2003

Hist.: RD 3-2004, f. & cert. ef. 5-20-04

741-020-0070

Project Administration

(1) The Department and the successful applicant shall execute a grant/loan contract prior to the disbursal of Program Funds for an Approved Project.

(2) Documentation of the projected costs for an Approved Project shall be submitted to the Department prior to the disbursal of Program Funds.

(3) Disbursal of Program Funds for grants will not exceed one disbursal per month.

(4) Upon request, the successful applicant must provide the Department with a copy of documents, studies, reports and materials developed during the Project, including a written report on the activities or results of the Project and any other information that may be reasonably requested by the Department.

(5) Any Program Funds disbursed but not used for an Approved Project must be returned to the Department.

(6) Amendments to Approved Project grant contracts are required to change a project's cost, scope, objectives or timeframe.

(7) The Department will require that a lien be placed upon the improvements in the county in which an Approved Project is located. This lien shall be in form approved by the Department and remain in effect for a period of not less than 10 years from the disbursal of the first Program Funds.

(8) If after three years the Approved Project does not generate the carloads and/or the jobs anticipated, the Department may request that the applicant repay up to 40% of Program Funds given as a grant. This shall only occur after the Department investigates the situation and a determination is made as to the cause(s) of the failure to meet the original objectives of the Approved Project.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 367.070 & Sec. 10, Ch. 741 OL 2003

Hist.: RD 3-2004, f. & cert. ef. 5-20-04

741-020-0080

Sanctions, Exceptions and Appeals

(1) The Department may invoke sanctions against applicants that fail to comply with the requirements governing the Program. The Department will not impose sanctions until the applicant has been notified in writing of deficiencies and has been given a reasonable time to respond and correct the deficiencies noted. The following circumstances may warrant sanctions:

(a) None of the Approved Project activities have begun within six months of notification of the award of money from the Industrial Spur Program;

(b) State statutory requirements have not been met;

(c) There is a significant deviation from the Approved Project grant/loan contract; or

(d) The Department finds that significant corrective actions are necessary to protect the integrity of the Program Funds for the Approved Project, and those corrective actions are not, or will not be, made within a reasonable time.

(2) One or more of the following sanctions may be imposed by the Department:

(a) Revoke an existing award.

(b) Withhold unexpended Program Funds.

(c) Require return of unexpended Program Funds or repayment of expended Program Funds.

(d) Bar the applicant from applying for future assistance.

(e) Other remedies that may be incorporated into grant/loan contracts.

(3) The remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the contract.

(4) The Director will consider appeals of the Department's funding decisions. Only the applicant may appeal. Appeals must be submitted in writing to the Director within 30 days of the event or action that is being appealed. The Director's decision is final.

(5) The Director may waive non-statutory requirements of this Program if it is demonstrated such a waiver would serve to further the goals and objectives of the Program.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 367.070 & Sec. 10, Ch. 741 OL 2003

Hist.: RD 3-2004, f. & cert. ef. 5-20-04

DIVISION 25

STANDARDS TO DETERMINE PROJECT ELIGIBILITY AND APPLICATION PROCEDURES FOR GRANTS OR LOANS FOR SHORT LINE RAILROAD RAIL INFRASTRUCTURE

741-025-0010

Purpose

The Short Line Credit Premium Account is established in ORS 367.067. The purpose of division 25 rules is to establish the Short Line Railroad Rail Infrastructure Improvement Program as well as procedures, standards and criteria for its operation.

Stat. Auth.: ORS 184.616, 184.619, 367.066, 367.067 & 823.011

Stats. Implemented: ORS 367.066(2) & 367.067

Hist.: RD 4-2004, f. & cert. ef. 5-20-04

741-025-0020

Definitions

For the purposes of division 25 rules, the following terms shall have the following definitions, unless the context clearly indicates otherwise:

(1) "Department" is as defined in ORS 184.610(2).

(2) "Director" is as defined in ORS 184.610(3).

(3) "Program" means the Short Line Railroad Rail Infrastructure Improvement Program as established by division 25 rules to administer the Short Line Credit Premium Account.

(4) "Program Funds" means the amount of money appropriated by the Legislature to the Short Line Credit Premium Account. These funds may be used as either grants or loans to eligible projects.

(5) "Project" means repair and refurbishment of trackage, right of way, structures or appurtenances of a shortline railroad's rail line for the purpose of either restoring the line to rail service or upgrading infrastructure to meet Legislative criteria set forth in OAR 741-025-0040.

(6) "Short line railroad" means a Class II or Class III railroad as defined in 49 C.F.R. 1201.

Stat. Auth.: ORS 184.616, 184.619, 367.066, 367.067 & 823.011

Stats. Implemented: ORS 367.066(2) & 367.067

Hist.: RD 4-2004, f. & cert. ef. 5-20-04

741-025-0025

Application Submission Periods

(1) The Department will announce periods for submitting applications for funding from the Short Line Credit Premium Account, as funding is available.

(2) Project applications will be reviewed for compliance with the requirements in OAR 741-025-0040 and as prescribed in 741-025-0050.

(3) Projects not funded may be resubmitted during application submission periods prescribed by the Board.

Stat. Auth.: ORS 367.066 - 367.067

Stats. Implemented: ORS 367.067(2)

Hist.: RD 4-2004, f. & cert. ef. 5-20-04

741-025-0030

Application Requirements

Applications for infrastructure assistance from the Short Line Credit Premium Account shall be in a format prescribed by the Department and shall contain or be accompanied by such information as the Department may require.

Stat. Auth.: ORS 184.616, 184.619, 367.066, 367.067 & 823.011

Stats. Implemented: ORS 367.066(2) & 367.067

Hist.: RD 4-2004, f. & cert. ef. 5-20-04

741-025-0040**Application Review and Approval**

(1) Upon receipt of an application the Department shall determine whether the proposed Project is eligible for Program Funds. Proposed Projects that meet the following criteria are eligible:

- (a) The applicant is a short line railroad;
- (b) The Project will not require or rely upon continuing subsidies from the Department; and
- (c) The applicant is current on all state and local taxes, fees and assessments.

(2) If the Project is not eligible, the Department shall, within 30 days:

- (a) Reject the application; or
- (b) Require the applicant to submit additional information as may be necessary.

Stat. Auth.: ORS 184.616, 184.619, 367.066, 367.067 & 823.011

Stats. Implemented: ORS 367.066(2) & 367.067

Hist.: RD 4-2004, f. & cert. ef. 5-20-04

741-025-0050**Project Funding Priorities**

(1) In evaluating eligible Projects to determine which shall receive infrastructure assistance, the Department shall consider:

- (a) The amount of funds available in the Short Line Credit Premium Account.
- (b) Whether the Project has a demonstrable public benefit.
- (c) Whether the Project leverages railroad and shipper contributions.

(d) Whether the Project regains or creates jobs in economically distressed areas of the state.

(2) In evaluating eligible Projects to determine which shall receive infrastructure assistance, the department shall give priority to eligible Projects that:

- (a) Enhance public safety;
- (b) Enhance the environment;
- (c) Appear creditworthy, providing financially secure sources of repayment to secure a federal credit instrument;
- (d) Promote rural economic development;
- (e) Reduce demand for expansion of highway capacity;
- (f) Enable Oregon companies to be more competitive in regional, national, and international markets;
- (g) Preserve or enhance rail or intermodal service to small communities or rail areas; and
- (h) Will be operated by a short line railroad with federal credit assistance under the RRIFP.

Stat. Auth.: ORS 184.616, 184.619, 367.066, 367.067 & 823.011

Stats. Implemented: ORS 367.066(2) & 367.067

Hist.: RD 4-2004, f. & cert. ef. 5-20-04

741-025-0060**Grant Awards and Match**

(1) Grants shall cover 100% of any Credit Risk Premiums set forth in the granting of a federal RRIF loan.

(2) No one Project shall receive more than 30% of the funds available to the Program outside of projects for RRIF financing.

(3) Any railroad and/or shipper contributions can be cash, or a combination of cash and in-kind services.

(4) Grants and loans will be awarded only when there are sufficient funds available to cover the costs of the loans and grants.

Stat. Auth.: ORS 184.616, 184.619, 367.066, 367.067 & 823.011

Stats. Implemented: ORS 367.066(2) & 367.067

Hist.: RD 4-2004, f. & cert. ef. 5-20-04

741-025-0070**Project Administration**

(1) The Department and successful applicant shall execute a grant/loan contract prior to the disbursement of Program Funds.

(2) Documentation of projected costs for the Project costs shall be submitted to the Department prior to the disbursement of Program Funds.

(3) Disbursement of Program Funds for a grant will not exceed one disbursement per month and will be on a voucher basis.

(4) Upon request the successful applicant must provide the Department with a copy of documents, studies, reports and materials developed during the Project, including a written report on the activities or results of the Project and any other information that may be reasonably requested by the Department.

(5) Any Program Funds disbursed but not used for an approved Project must be returned to the Department.

(6) Amendments to project grant contracts are required to change a Project's cost, scope, objectives or timeframe.

(7) The Department will require that a lien be placed upon the improvements in the county in which the project is located. This lien shall be in form approved by the Department and remains in effect for a period of not less than 10 years from the disbursement of the first funds.

Stat. Auth.: ORS 184.616, 184.619, 367.066, 367.067 & 823.011

Stats. Implemented: ORS 367.066(2) & 367.067

Hist.: RD 4-2004, f. & cert. ef. 5-20-04

741-025-0080**Sanctions, Exceptions and Appeals**

(1) The Department may invoke sanctions against the applicants that fail to comply with the requirements governing the Program. The Department will notify the applicant in writing of deficiencies and give a reasonable amount of time for the applicant to respond to and correct the deficiencies before imposing sanctions. The following circumstances may warrant sanctions:

(a) None of the Project activities have begun within six months after award.

(b) State statutory requirements have not been met.

(c) The Project substantially deviates from the contract.

(d) The Department finds that significant corrective actions are necessary to protect the integrity of the Project funds, and those corrective actions are not, or will not be, made within a reasonable time.

(2) One of more of the following sanctions may be imposed by the Department:

(a) Revoke an existing award;

(b) Withhold unexpended funds;

(c) Require return of unexpended Program Funds or repayment of expended Program Funds;

(d) Bar the applicant from applying for future assistance;

(e) Other remedies that may be incorporated into grant/loan contracts.

(3) The remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the contract.

(4) The Director will consider appeals of the Department's funding decisions. Appeals must be submitted in writing to the Director within 30 days of the event or action that is being appealed. The Director's decision is final.

(5) The Director may waive non-statutory requirements of this program if it is demonstrated such a waiver would serve to further the goals and objectives of the Program.

Stat. Auth.: ORS 184.616, 184.619, 367.066, 367.067 & 823.011

Stats. Implemented: ORS 367.066(2) & 367.067

Hist.: RD 4-2004, f. & cert. ef. 5-20-04

DIVISION 40**PUBLIC REAL PROPERTY NEAR RAIL
INFRASTRUCTURE NOTIFICATION****741-040-0010****Definitions**

As used in OAR 741-040-0020 to 741-040-0060, the following definitions apply:

(1) "At-Grade crossing" means a highway-rail grade crossing as defined in the Manual on Uniform Traffic Control Devices as adopted in OAR 734-020-0005.

(2) "Division" means Oregon Department of Transportation, Rail Division.

(3) "Light Rail Corridor" means Real Property within 100 feet of a rail that is for trolley, streetcar or automated guideway that is not regulated by the Federal Railroad Administration, but does not include such property that is within 100 feet of a Railroad Right of Way or within 500 feet of an At-Grade crossing.

(4) "Political subdivision" as defined by ORS 271.005(3).

(5) "Rail Corridor" means any Real Property within 100 feet of a Railroad Right of Way or within 500 feet of an At-Grade crossing.

(6) "Railroad Right of Way" means Real Property on which rail operation has taken place and that remains subject to the jurisdiction of the federal Surface Transportation Board.

(7) "Real Property" means all real property together with any and all improvements thereon and any interest therein.

Stat. Auth.: ORS 184.616, 184.619, Ch. 446 OL 2011

Stats. Implemented: ORS 271.310

Hist.: RD 1-2012, f. & cert. ef. 1-27-12

741-040-0020

Purpose

To provide procedures to share advance notice of Real Property for sale, exchange or conveyance by political subdivisions with private providers of rail service.

Stat. Auth.: ORS 184.616, 184.619, Ch. 446 OL 2011

Stats. Implemented: ORS 271.310

Hist.: RD 1-2012, f. & cert. ef. 1-27-12

741-040-0030

Notification Required

Unless an exception applies pursuant to OAR 741-040-0040, at least 30 days before listing or placing any Real Property for sale, exchange or conveyance, a Political subdivision shall notify the Rail Division Administrator of its intent to undertake such listing or placement if the Real Property is within:

(1) 100 feet of a Railroad Right of Way;

(2) 500 feet of an At-Grade crossing.

Stat. Auth.: ORS 184.616, 184.619, Ch. 446 OL 2011

Stats. Implemented: ORS 271.310

Hist.: RD 1-2012, f. & cert. ef. 1-27-12

741-040-0040

Exempt from Notification

The requirement for notification does not apply:

(1) To listing or placing any Real Property for sale, exchange or conveyance within a Light Rail Corridor;

(2) If the proposed sale, exchange or conveyance of the real property is to a provider of rail service; or

(3) To the proposed sale, exchange or conveyance of easements.

Stat. Auth.: ORS 184.616, 184.619 & 271.310

Stats. Implemented: ORS 271

Hist.: RD 1-2012, f. & cert. ef. 1-27-12; RD 2-2013, f. & cert. ef. 12-20-13

741-040-0050

Form of Notification

The Political subdivision will provide on forms approved by the Division the following information:

(1) A detailed description of the Real Property to be sold, including its approximate size in square feet or acreage and its legal description;

(2) A map showing the location of the Real Property in relation to the Railroad Right of Way and/or At-Grade crossing;

(3) A completed notice using a form provided by the Division; and

(4) Any other information the Division may request.

Stat. Auth.: ORS 184.616, 184.619, Ch. 446 OL 2011

Stats. Implemented: ORS 271.310

Hist.: RD 1-2012, f. & cert. ef. 1-27-12

741-040-0060

Submission Process

The Political subdivision shall submit notification and notification materials either electronically or in hard copy format.

Stat. Auth.: ORS 184.616, 184.619, Ch. 446 OL 2011

Stats. Implemented: ORS 271.310

Hist.: RD 1-2012, f. & cert. ef. 1-27-12

741-040-0070

Railroad Notification

(1) Division shall solicit from each provider of rail service operating within the State first-class U.S. and electronic mail addresses to which Division shall send notifications required hereunder.

(2) Division will notify any provider of rail service using the Railroad Right of Way within the area specified by ORS 271.310(3) of the Real Property being sold, exchanged or conveyed by at least one of the following methods:

(a) Mailed notice;

(b) Electronic mail notice.

Stat. Auth.: ORS 184.616, 184.619, Ch. 446 OL 2011

Stats. Implemented: ORS 271.310

Hist.: RD 1-2012, f. & cert. ef. 1-27-12

DIVISION 60

STATE SAFETY OVERSIGHT OF RAIL FIXED GUIDEWAY SYSTEMS

741-060-0010

General Provisions

(1) OAR 741-060-0010 through 741-060-0110 establish the system safety and system security program standards for rail transit agencies in the State of Oregon.

(2) Federal Transit Administration standards and requirements, 49 U.S.C. 5330 and Title 49 of the Code of Federal Regulations, Part 659, Rail Fixed Guideway Systems, State Safety Oversight, effective May 31, 2005, are hereby adopted by reference as the minimum acceptable program standards for state oversight of rail transit agencies that are included, or have filed to be included, in the FTA's calculation of fixed guideway route miles or receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336). These federal regulations are available for review from the Oregon Department of Transportation Rail Division and from the Federal Transit Administration.

(3) OAR 741-060-0010 through 741-060-0110 apply to all rail transit agencies operating rail fixed guideway systems in the State of Oregon. Non-compliance with these rules is subject to a penalty under ORS 824.990(1)(a). Rail transit agencies shall provide written certification of compliance with these rules to the Rail Division prior to beginning new passenger operations or passenger operations on an expanded rail fixed guideway system.

(4) The Rail Division shall monitor compliance with the system safety and system security and emergency preparedness program standards.

(5) All materials containing sensitive security information as defined in OAR 741-060-0020(24), must be identified as follows:

(a) In the case of paper records containing sensitive security information, a covered person must mark the record by placing the protective marking conspicuously on the top, and the distribution limitation statement on the bottom, of

(A) The outside of any front and back cover, including a binder cover or folder, if the document has a front and back cover;

(B) Any title page; and

(C) Each page of the document.

(b) The protective marking is: SENSITIVE SECURITY INFORMATION.

(c) The distribution limitation statement is: WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

(d) In the case of non-paper records that contain sensitive security information, including motion picture films, videotape

recordings, audio recording, and electronic and magnetic records, a covered person must clearly and conspicuously mark the records with the protective marking and the distribution limitation statement such that the viewer or listener is reasonably likely to see or hear them when obtaining access to the contents of the record.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0020

Definitions

As used in OAR 741-060-0010 through 741-060-0110, the following definitions apply:

(1) “24-hour day” means a period of time that begins at the time an employee reports to work, after concluding at least the required minimum number of consecutive hours off.

(2) “Accident” means any event involving a rail transit vehicle or occurring on a rail transit-controlled property, involving one or more of the following:

(a) A fatality, either at the scene or resulting from injuries sustained at the scene when the injured person dies within 30 days of the incident;

(b) Injuries requiring immediate medical attention away from the scene;

(c) Property damage to rail transit vehicles, non-rail transit vehicles, other rail transit property or facilities, or non-transit property equal to or exceeding \$25,000;

(d) An evacuation due to life safety or security reasons;

(e) A collision at a rail-grade crossing;

(f) A mainline derailment;

(g) A collision between a rail transit vehicle and another rail transit vehicle or a rail transit non-revenue vehicle; or

(h) A collision with an individual on a rail right of way.

(3) “Contractor” means an entity that performs tasks or services on behalf of the Rail Division or rail transit agency. The rail transit agency may not be a contractor for the Rail Division.

(4) “Corrective action plan” means a plan developed by the rail transit agency that describes the actions the rail transit agency will take to minimize, control, correct, or eliminate hazards, and the schedule and responsibility for implementing those actions.

(5) “Covered Person” is any person

(a) Who has access to Sensitive Security Information;

(b) Who is employed by, contracted to, or acting for a covered person, including a grantee of the federal Department of Homeland Security (DHS) or Department of Transportation (DOT), and persons formerly in such a position;

(c) For whom a vulnerability assessment has been directed, created, held, funded, or approved by the DOT, DHS, or who has prepared a vulnerability assessment that will be provided to either agency in support of a Federal security program; or

(d) Who receives Sensitive Security Information.

(6) “Derailment” means an instance when the wheel of a rail transit vehicle comes off the head of the rail. It does not include vehicles equipped with rubber tires designed for highway use.

(7) “FTA” means the Federal Transit Administration, an agency within the U.S. Department of Transportation.

(8) “Hazard” means any real or potential condition (as defined in the rail transit agency’s hazard management process) that may cause injury, illness, death, damage to or loss of a system, equipment or property, or damage to the environment.

(9) “Individual” means a passenger, employee, contractor, other rail transit facility worker, pedestrian, trespasser, or any person on rail transit-controlled property.

(10) “Investigation” means a process to determine the causal and contributing factors of an accident or hazard, so that actions can be identified to prevent recurrence.

(11) “NTSB” means the National Transportation Safety Board, an independent federal agency responsible for investigation of civil transportation accidents.

(12) “On-duty time” means a period of time beginning when a safety sensitive employee reports for work at a designated point or

at a designated time, and continues until such time as that employee is released or relieved from all responsibility for performing work. On-duty time shall begin only after the safety sensitive employee has completed at least the minimum number of continuous hours off duty.

(13) “Passenger” means a person who is on board, boarding, or alighting from a rail transit vehicle for the purpose of travel.

(14) “Passenger operations” means the period of time when any aspect of rail transit agency operations is initiated with the intent to carry passengers.

(15) “Program standard” means a written document developed and adopted by the Rail Division that describes the rules and procedures used to provide rail transit agency safety and security oversight.

(16) “Rail Division” means the Rail Division of the Oregon Department of Transportation, an agency of the State of Oregon designated to provide safety and security oversight to rail transit agencies that operate in Oregon.

(17) “Rail fixed guideway system” means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley, streetcar or automated guideway used primarily for carrying passengers that is not regulated by the Federal Railroad Administration, and:

(a) Is included, or has filed to be included, in the FTA’s calculation of fixed guideway route miles or receives funding under FTA’s formula program for urbanized areas (49 U.S.C. 5336); or

(b) Is owned or operated by a municipal corporation, as defined in ORS 824.045(2), and does not fall within the definition in (17)(a) above.

(18) “Rail transit agency” means an entity that operates a rail fixed guideway system in the State of Oregon.

(19) “Rail transit-controlled property” means property that is used by the rail transit agency and may be owned, leased, or maintained by the rail transit agency.

(20) “Rail transit vehicle” means the rail transit agency’s rolling stock, including but not limited to passenger and maintenance vehicles.

(21) “Safety” means freedom from harm resulting from unintentional acts or circumstances.

(22) “Safety sensitive employee” means an individual employed by, contracted by, or a volunteer of, the rail transit agency who operates a light rail vehicle, trolley, streetcar, or other vehicle used for carrying passengers, or who dispatches or controls the movement of such vehicles, or who reports, transmits, receives or delivers orders pertaining to the movement of such vehicles, or who is engaged in the installation or maintenance of the on-track vehicles, train control, train protection, or signaling system.

(23) “Security” means freedom from harm resulting from intentional acts or circumstances.

(24) “Security breach” means an event, occurrence or threat that may endanger life or property, or may result in the loss of services or system equipment. For reporting purposes, security breach includes, but may not be limited to:

(a) Homicide;

(b) Forcible rape;

(c) Robbery;

(d) Aggravated assault;

(e) Bomb threat, or potential bomb threat;

(f) Hijack of a rail transit vehicle; or

(g) Evacuation due to any security reason or potential threat.

(25) “Sensitive security information” means any information that is exempt from public disclosure pursuant to ORS 192.502, and 49 CFR §§ 15 and 1520, effective November 26, 2008.

(26) “System safety program plan” means a document developed and adopted by the rail transit agency describing its safety policies, objectives, responsibilities and procedures.

(27) “System security and emergency preparedness plan” means a document developed and adopted by the rail transit agency describing its security policies, objectives, responsibilities and procedures to assure rapid, controlled, and predictable responses to various types of emergencies.

(28) “System Security and Emergency Preparedness Planning Guide” means the guidelines available from the FTA for the development of system security and emergency preparedness plans.

(29) “Train” means one or more rail transit vehicles coupled together and propelled as a single operating unit.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0025

Corrective Action Plan Requirements

(1) Each rail transit agency that operates a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(a) shall prepare a corrective action plan as required by this rule and in compliance with 49 CFR Part 659, effective May 31, 2005. Each rail transit agency that operates a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(b) shall prepare a corrective action plan in compliance with this rule.

(2) Each rail transit agency must develop a corrective action plan for the following:

(a) Results from investigations in which identified causal and contributing factors are determined by the rail transit agency or Rail Division as requiring corrective action(s); or

(b) Hazards or deficiencies identified through internal or external safety and security audits or reviews, or from the hazard management process.

(3) The corrective action plan must identify the hazard or deficiency, the planned activity or actions to resolve the hazard or deficiency, the individual or department(s) responsible for implementing the corrective action, and a schedule of dates for implementation of corrective action(s).

(4) The rail transit agency must submit the corrective action plan to the Rail Division for review and approval within 30 days after the need for the corrective action plan has been identified. The Rail Division will review the plan and issue written notice approving it, approving it with conditions, or rejecting it.

(5) If the Rail Division approves the rail transit agency’s corrective action plan with conditions, or rejects it, the rail transit agency shall have 15 days from the date the Rail Division issued such notice to request that the Rail Division reconsider its decision or to submit a new plan for approval.

(6) The rail transit agency shall submit verification that the corrective actions within the approved corrective action plan have been implemented.

(7) Each rail transit agency shall maintain a corrective action monitoring log and provide the Rail Division monthly status reports regarding individual corrective action plans or a monthly update to its corrective action monitoring log.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.045
Stats. Implemented: ORS 824.045

Hist.: RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0030

System Safety Program Plan Requirements

(1) Each rail transit agency with a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(a) shall prepare a system safety program plan conforming to the requirements of 49 CFR Part 659, effective May 31, 2005, and 741-060-0010 through 741-060-0110. Each rail transit agency that operates a rail fixed guideway system meeting the definition in 741-060-0020(17)(b) shall prepare a system safety program plan conforming to 741-060-0010 through 741-060-0110.

(2) The rail transit agency shall review its system safety program plan a minimum of once a year. After each review, and upon a date agreed to by the rail transit agency and the Rail Division, the rail transit agency shall submit the plan, along with written documentation and any checklists used for the review, to the Rail Division for review and approval. When the rail transit agency submits the plan and review materials to the Rail Division, the rail transit agency shall include a cover letter identifying any changes made to the plan. If the Rail Division [rail transit agency] determines that [no] additional changes to the plan are necessary,

the Rail Division shall advise the rail transit agency in writing of the changes required. The rail transit agency shall have 30 days to revise its plan to comply with modifications required by the Rail Division.

(3) The system safety program plan shall describe the method used to maintain effective communications and coordination with Rail Division staff, and shall contain:

(a) An organization chart of the rail transit agency;

(b) A description of employee training and certification on the System Safety Program Plan process for employees in safety-related positions;

(c) Identification of the facilities and equipment subject to regular safety-related inspection and testing;

(d) A description of the process for developing and managing corrective action plans as described in OAR 741-060-0025;

(e) A description of the process used by the rail transit agency to ensure that planned and scheduled internal safety reviews are performed to evaluate compliance with the system safety program plan, pursuant to OAR 741-060-0070;

(f) The method and schedule for annual submission of the system safety program plan to the Rail Division;

(g) The process for facilitating on-site safety reviews by the Rail Division;

(h) A description of the safety program for employees and contractors that incorporates the applicable state and local requirements, including:

(A) Safety requirements that employees and contractors must follow when working on, or in close proximity to, rail transit agency property; and

(B) Processes for ensuring the employees and contractors know and follow the requirements.

(i) A description of the hazard management process used by the rail transit agency, pursuant to OAR 741-060-0035;

(j) A description of the process used by the rail transit agency to perform accident notification, investigation and reporting, pursuant to OAR 741-060-0080 and 741-060-0090;

(k) A description of the process used by the rail transit agency to ensure that safety concerns are addressed in modifications to existing systems, vehicles, and equipment, including any system extensions, rehabilitations or new starts, if applicable; and

(L) A description or reference to the hours of service policy pursuant to OAR 741-060-0100.

(4) The system safety program plan for rail transit agencies that operate a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(b) shall include a drug and alcohol-testing program, or reference to an existing program, that pertains to its safety sensitive employees. The program, if contained in a separate document from the plan, shall be submitted to the Rail Division for review.

(5) The rail transit agency shall implement and comply with the system safety program plan for all aspects of its rail fixed guideway system.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0035

Hazard Management Process

(1) The rail transit agency must develop and document as a part of its system safety program plan a process to identify and resolve hazards during its operation, including any hazards resulting from subsequent system extensions or modifications, operational changes, or other changes.

(2) The hazard management process must, at a minimum:

(a) Define the rail transit agency’s approach to hazard management and the implementation of an integrated system-wide hazard resolution process;

(b) Specify the sources of, and the mechanisms to support, the on-going identification of hazards;

(c) Define the process by which the identified hazard(s) will be evaluated and prioritized for elimination or control;

(d) Identify the mechanism used to track through to resolution the identified hazard(s);

(e) Define minimum thresholds for the notification and reporting of hazard(s) to the Rail Division; and

(f) Specify the process by which the rail transit agency will provide on-going reporting of hazard resolution activities to the Rail Division.

Stat. Auth.: ORS 184.616, 184.619, 823.011, RS 824.045

Stats. Implemented: ORS 824.045

Hist.: RD 1-2007, f. & cert. ef. 3-7-07

741-060-0040

Monitoring the System Safety Program Plan

(1) The Rail Division or its contractor may inspect, investigate and review the operation and maintenance of each rail transit agency to assess whether the actual safety and practices comply with its system safety program plan.

(2) At least once every three years, the Rail Division or its contractor shall conduct an on-site review of the implementation of each rail transit agency's system safety program plan to verify compliance with, and evaluate the effectiveness of, the plan.

(3) Following each on-site review, the Rail Division or its contractor shall prepare a written report of its findings and recommendations, and the need, if any, for updating the system safety program plan or revising implementation of the plan. If the report identifies deficiencies for which a corrective action plan is required, the rail transit agency shall submit a corrective action plan to the Rail Division within 30 days after receiving the report, or within a different time period if specified by the Rail Division. The corrective action plan must comply with the requirements in OAR 741-060-0025.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0050

System Security and Emergency Preparedness Plan Requirements

(1) Each rail transit agency with a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(a) shall prepare a system security and emergency preparedness plan conforming to 49 CFR part 659, effective May 31, 2005, the **FTA's Transit Agency System Security and Emergency Preparedness Planning Guide**, and OAR 741-060-0010 through 741-060-0110. Each rail transit agency with a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(b) shall prepare a system security and emergency preparedness plan conforming to OAR 741-060-0010 through 741-060-0110.

(2) The system security and emergency preparedness plan shall be developed and maintained in a separate document and not as part of the system safety program plan.

(3) The rail transit agency shall review its system security and emergency preparedness plan a minimum of once a year. After each review, and upon a date agreed to by the rail transit agency and Rail Division, the rail transit agency shall submit the plan, along with written documentation and any checklists used for the review, to the Rail Division for review and approval. When the rail transit agency submits the plan and review materials to the Rail Division, it shall include a cover letter identifying any changes made to the plan. If the Rail Division determines that additional changes to the plan are necessary, the Rail Division shall advise the rail transit agency in writing of the changes required. The rail transit agency shall have 30 days to revise its plan to comply with any modifications required by the Rail Division.

(4) The rail transit agency shall implement and comply with the system security and emergency preparedness plan for all operations of its rail fixed guideway system. The rail transit agency shall document within the plan its process for managing threats and vulnerabilities during operations and for major projects, extensions, new vehicles and equipment, including integration with the safety certification process.

(5) The rail transit agency shall not make its system security and emergency preparedness plan available to the public.

(6) The system security and emergency preparedness plan shall include the process the rail transit agency used to develop the plan.

(7) The system security and emergency preparedness plan shall include measures to control and track all access to the plan and any of its contents. At a minimum, the rail transit agency must number each page, place a unique identifying mark on each copy of the plan and maintain a log showing the whereabouts of each copy of the plan. The plan shall include the process the rail transit agency uses to make the plan available for Rail Division review and approval. Any information contained therein determined to be sensitive security information, as defined in OAR 741-060-0020(25), shall be marked as specified in OAR 741-060-0010(5).

(8) The system security and emergency preparedness plan must:

(a) Identify the policies, goals, and objectives for the security program endorsed by the rail transit agency's chief executive; and

(b) Identify controls in place that address the personal security of passengers and employees.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0060

Monitoring the System Security and Emergency Preparedness Plan

(1) The Rail Division or its contractor may investigate and review the operation[al phase] of each rail transit agency to determine whether the rail transit agency's actual security practices comply with its system security and emergency preparedness plan.

(2) At least once every three years, the Rail Division or its contractor shall conduct an on-site review of the implementation of each rail transit agency's system security and emergency preparedness plan to verify compliance with, and evaluate the effectiveness of, the plan.

(3) Following each on-site review, the Rail Division or its contractor shall prepare a written report of its findings and recommendations, and the need, if any, for updating the system security and emergency preparedness plan or revising implementation of the plan. If the report identifies deficiencies for which a corrective action plan is required, the rail transit agency shall submit a corrective action plan to the Rail Division within 30 days after receiving the report, or within a different time period if specified by the Rail Division. The corrective action plan must comply with the requirements in OAR 741-060-0025.

(4) Sensitive security information, as defined in OAR 741-060-0020(25), may not be disseminated or publicly disclosed.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0070

Requirements for Internal Reviews

(1) Over a three-year period, each rail transit agency that operates a rail fixed guideway system meeting the definition:

(a) In OAR 741-060-0020(17)(a) shall conduct on-going internal reviews that cover all elements of 49 CFR § 659.19 and 659.23, effective May 15, 2005, and all elements of 741-060-0030 and 741-060-0050;

(b) In OAR 741-060-0020(17)(b) shall conduct on-going internal reviews that cover all the elements of OAR 741-060-0030 and 741-060-0050.

(2) Internal reviews shall be performed by each rail transit agency to evaluate compliance and measure the effectiveness of its system safety program plan and system security and emergency preparedness plan.

(3) The internal reviews referenced in the system safety program plan and the security and emergency preparedness plan must

describe the process used by the rail transit agency to ensure that planned and scheduled internal reviews are performed to evaluate compliance with the plans. The description must include:

(a) Identification of departments and functions subject to review;

(b) Responsibility for scheduling reviews;

(c) The process for conducting reviews, including the development of checklists and the issuing of reports and findings resulting from the reviews; and

(d) Tracking the status of findings.

(4) The rail transit agency shall notify the Rail Division at least 30 days prior to any planned internal reviews. The rail transit agency shall submit to the Rail Division copies of the checklists and procedures it will use for the review.

(5) Each internal review shall be performed in accordance with the written checklist by personnel technically qualified to verify compliance and assess the effectiveness of the system safety program plan or the system security and emergency preparedness plan components being reviewed. The reviewers may be organizationally assigned to the unit responsible for the activity being reviewed, but they must be independent from the first line of supervision responsible for performing the activity being reviewed.

(6) Internal reviews shall be documented in an annual report that covers the reviews performed and the results of each review in terms of the adequacy and effectiveness of the system safety program plan and system security and emergency preparedness plan. The annual report for the internal reviews performed during the preceding year shall be submitted to the Rail Division prior to the 15th of February of each year, pursuant to OAR 741-060-0095.

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0080

Requirements for Reporting Accidents, Security Breaches and Hazards

(1) Each rail transit agency shall notify the Rail Division of any accident or security breach no later than two hours after its occurrence.

(2) Each rail transit agency that shares track with a general railroad system, and is subject to Federal Railroad Administration reporting requirements, shall notify the Rail Division within two hours of any incident for which they are required to report to the Federal Railroad Administration.

(3) Each rail transit agency shall notify the Rail Division of any hazard that meets the threshold for notification and reporting of such hazards no later than 24 hours after identification.

(4) Notice required under sections (1), (2) and (3) of this section shall be made by electronic mail or telephone and, at a minimum, shall contain the following information:

(a) Name of reporting party;

(b) Date and time of the report;

(c) Date and time of the accident or security breach and probable cause;

(d) Location and brief description of the accident, security breach or identified hazard; and

(e) Action taken to insure the safety and security of employees, passengers and public from the effects of the accident, security breach or identified hazard.

(5) Each rail transit agency shall submit to the Rail Division a summary report for each month of the year:

(a) Summarizing the number of accidents, security breaches and identified hazards that occurred that month, as well as any other incident involving a fire or other event that requires fire suppression activities.

(b) With a detailed report attached for each accident, security breach, identified hazard, and incident in the report; and

(c) With the final report of any investigation completed that month.

(6) The summary report must be submitted within 30 days following the end of the month being reported.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD

1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0090

Requirements for Investigating Accidents, Security Breaches and Hazards

(1) Each rail transit agency shall investigate accidents and [,] security breaches that meet the notification threshold. Unless formally advised otherwise, the rail transit agency shall conduct these investigations on behalf of the Rail Division. The rail transit agency may use its own staff or a contractor to conduct investigations.

(2) Within 24 hours of the accident or security breach, the rail transit agency shall submit to the Rail Division a 24-hour status report documenting investigation activities and findings. The rail transit agency shall also submit additional status reports if requested by the Rail Division.

(3) In addition to the 24-hour status report and any other reports requested by the Rail Division pursuant to section (2) of this rule, the rail transit agency shall submit to the Rail Division a draft investigation report that includes a description of the investigation activities, findings, identified causal and contributing factors, and a corrective action plan in compliance with OAR 741-060-0025.

(4) The Rail Division will review the draft report submitted under section (3) of this rule. If the Rail Division concurs with the findings of the draft report it will be deemed a final report and the Rail Division will formally adopt it in writing. If the Rail Division does not concur with the findings of the draft report it may conduct its own investigation or transmit its dissent to the findings and negotiate with the rail transit agency until a resolution on the findings is reached.

(5) The rail transit agency shall submit to the Rail Division for review and approval a copy of its investigation procedures. Any subsequent modifications and revisions to the procedures must also be submitted to the Rail Division for review and approval.

(6) Each rail transit agency shall oversee investigations undertaken on behalf of the Rail Division pursuant to section (1) of this rule, and shall retain responsibility for the results of such investigations.

(7) The rail transit agency shall cooperate fully during any investigation conducted by the Rail Division or the NTSB. All NTSB findings or recommendations that are adopted by the Rail Division shall be implemented by the rail transit agency.

(8) Investigation reports and corrective action plans resulting from rail transit agency or Rail Division activities shall not be admissible evidence in any proceeding or civil action for damages that may result from the matters investigated.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0095

Annual Report Requirements

By February 15 of each year, each rail transit agency shall submit to the Rail Division a written report for review and approval, certifying that it has complied with the provisions of OAR 741-060-0010 through 741-060-0110 for the preceding year. The report shall include:

(1) A formal letter of certification signed by the rail transit agency's chief executive indicating:

(a) That the rail transit agency is in compliance with its system safety program plan and its system security and emergency preparedness plan; or

(b) Noncompliance findings from its internal safety and security audits and reviews, with documentation of corrective actions that will be or have been taken to achieve compliance.

(2) A compilation summarizing all the reportable accidents, security breaches, and identified hazards, and all investigations and hazard analyses conducted. It shall include findings, identified causal and contributing factors, and updated corrective action plans, if any;

(3) A summary of the hazard management process activities and all internal safety and security reviews conducted, with findings and updated corrective action plans, if any; and

(4) A summary of the required annual review and the modifications, if any, to its system safety program plan and system security and emergency preparedness plan.

(5) The security portion of the annual report must comply with the sensitive security information management requirements of the rail transit agency's security and emergency preparedness plan.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.045

Stats. Implemented: ORS 824.045

Hist.: RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0100

Hours of Service

(1) Each rail transit agency shall establish, implement and enforce an hours-of-service policy for its safety sensitive employees. The policy and any subsequent changes shall be reviewed and approved by the Rail Division.

(2) The policy must prohibit a safety sensitive employee from:

(a) Performing work in excess of the maximum hours of on-duty time during a 24-hour day or a seven-day period;

(b) Performing work in excess of the maximum consecutive days without a rest day; or

(c) Going on duty until the employee has had the minimum required number of consecutive hours off.

(3) Hours of service limitations may be waived under situations of emergencies, as declared by the rail transit agency's Chief Executive Officer of Operations, or his or her designee. When an emergency situation requiring the extended service of a safety sensitive employee occurs which is both unforeseeable and beyond the control of the rail transit agency, the employee may be on duty in excess of the allotted hours. These emergency situations may include, but are not limited to, winter storms, public emergencies like an earthquake or fire, and accidents or security breaches. During emergency situations, hours of service must be limited to the extent practical and monitored by the rail transit agency.

(4) The rail transit agency shall maintain hours of service records for safety sensitive employees for a period of two years, and upon request, make such records available to the Rail Division for review.

(5) The rail transit agency shall notify the Rail Division whenever a safety sensitive employee is not in compliance with the hours-of-service policy. The rail transit agency shall notify the Rail Division of the non-compliance by telephone or electronic mail, and shall do so within 48 hours of its occurrence. The notification required under this section shall contain:

(a) The employee's name;

(b) The employee's identification number;

(c) The employee's work title;

(d) The type of violation;

(e) The schedule of work and rest for the period of 72 hours prior to the infraction; and

(f) A brief description of the circumstances of the violation.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045

Stats. Implemented: ORS 824.045

Hist.: RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

741-060-0110

Annual Fee for State Oversight Activities

(1) On or before July 15 of each year, the Rail Division shall provide to municipal corporations operating a rail fixed guideway system, as defined in ORS 824.045(2), an estimate of costs for the state oversight program described in OAR 741-060-0010 through 741-060-0110 for the next fiscal year. The estimate shall indicate the total excess fees collected, if any, for the prior fiscal year. Costs shall be apportioned among each rail fixed guideway system, based on time and expenses associated with the state oversight of each system.

(2) The Rail Division may also require reimbursement for expenses directly attributable to a single rail transit agency, such as federally required audits.

(3) By August 31 of each year, the rail transit agency must pay the entire amount, minus the excess fees from the prior fiscal year, or pay the entire amount and request the excess fees be refunded.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045

Stats. Implemented: ORS 824.045

Hist.: RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07; RD 1-2010, f. & cert. ef. 10-25-10

DIVISION 100

RAILROAD-HIGHWAY CROSSINGS — GENERAL

741-100-0005

Jurisdiction of the State

The jurisdiction of the state for the regulation of highway-rail grade crossings includes all roadways open to or to be opened to and used by the public, which are equipped with protective devices as required under OAR chapter 741, divisions 100 through 200, or by Order of the Department. The state's jurisdiction extends a distance equal to the safe stopping distance, for the posted or statutory speed, measured back from the location of the stop clearance lines at the highway-rail grade crossing.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200

Hist.: RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-100-0010

Measurements

Unless otherwise specified, measurements used in these rules refer to the distance from the centerline of the nearest track or roadway to the centerline of the nearest signal mast, post or other structure.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-00001; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-100-0020

Definitions

As used in OAR chapter 741, divisions 100 through 200, the following definitions apply:

(1) "Alter" means any change to the roadway or tracks at a crossing that materially affects use of the crossing by railroad equipment, vehicles, or pedestrians. Alterations include, but are not limited to adding or removing tracks; changing the width of the roadway; installing or removing protective devices; creating an additional travel lane; changing the direction of traffic flow; installing curbs, sidewalks, or bicycle facilities; or changing grade, including superelevation, if sufficient to necessitate a change of the grade of the railroad or highway being crossed.

(2) "AASHTO" means the American Association of State Highway and Transportation Officials, 2001, A Policy on Geometric Design of Highways and Streets, Fourth Edition.

(3) "Bicycle facilities" are defined in Section 1A.13 of the Manual on Uniform Traffic Control Devices (MUTCD), see section 13 below.

(4) "Bicycle lane" has the meaning given in Section 1A.13 of the MUTCD.

(5) "Crossing" means the area affecting or affected by the intersection of a highway with a track or tracks of a railroad or a rail fixed guideway system.

(6) "Curb" means standard curb as per Oregon Standard Drawing No. RD700.

(7) "Grade crossing" means a highway-rail grade crossing as defined in Section 1A.13 of the MUTCD.

(8) "Guardrail" means a device as depicted in Oregon Standard Drawing No. RD445.

(9) "Highway" has the meaning given that term in ORS 824.200(2).

(10) "Illumination" means a system of luminaires arranged in a unique pattern (see Figure 4) to provide direct lighting on the side of railroad equipment occupying a grade crossing during hours of darkness.

(11) "Interconnection" is as defined in Section 1A.13 of the MUTCD.

(a) "Preemption" is as defined in Section 1A.13 of the MUTCD. See also Section 4D.27 of the MUTCD.

(b) "Advance Preemption" is as defined in 1A.13 of the MUTCD.

(c) "Simultaneous Preemption" is as defined in Section 1A.13 of the MUTCD.

(12) "Maintenance" includes but is not limited to the repair, replacement, alignment, cleaning of protective devices and other actions necessary to assure the proper warning is conveyed to users of the crossing. It also includes the required power to properly activate and operate the protective devices. Minor changes resulting from the maintenance of surface, grade, and alignment, or the replacement in kind of existing signs and signals are not alterations. See OAR 741-120-0020 regarding maintenance of grade crossing surfaces.

(13) "MUTCD" means the Manual on Uniform Traffic Control Devices as adopted by OAR 734-020-0005.

(14) "Pathway" is defined in Section 1A.13 of the MUTCD.

(15) "Public authority" has the meaning given to the term "public authority in interest" in ORS 824.200(7).

(16) "Rail fixed guideway system" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley or automated guideway used primarily for carrying passengers.

(17) "Railroad" has the meaning given that term in ORS 824.020(2) and 824.200(7).

(18) "Roadway" has the meaning given in Section 1A.13 of the MUTCD.

(19) "Safe Stopping Distance" (SSD) means the design stopping sight distance as set forth in AASHTO 2001, Exhibit 3-1 (see Table 1).

(20) "Separated crossing" means a crossing where the highway and railroad are not at common grade. There are two types of separated crossings:

(a) "Overcrossing" means the highway is above the railroad.

(b) "Undercrossing" means the railroad is above the highway.

(21) "Shoulder" means that portion of the roadway contiguous with the traveled way that accommodates stopped vehicles, emergency use, and lateral support of sub-base, base, and surface courses.

(22) "Sidewalk" is as defined in Section 1A.13 of the MUTCD.

(23) "Sight Distance" means the distance from the highway-rail grade crossing, measured along the railroad, that a train must become visible to a motorist who is at the SSD.

(24) "Standard Protective Devices" means the traffic control devices listed in the MUTCD, and the Active, Passive, Auxiliary and Advance Warning devices listed in Sections (2), (3), (4), (5), (6), and (7) of OAR 741 110 0030.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stats. Implemented: ORS 824.200

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0002; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-100-0030

Adoption of Tables and Figures Related to Railroad-Highway Crossings

For the purposes of OAR chapter 741, division 100 through division 200, Tables 1 and 2 and Figures 1 through 5 are hereby adopted and made a part of these rules.

[ED. NOTE: Tables & Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.212

Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; ; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-100-0040

Display of U.S. DOT Inventory Number

The U.S. DOT crossing number shall be displayed at all public highway-rail crossings.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200

Hist.: RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

DIVISION 110

PROTECTIVE DEVICES AT CROSSINGS

741-110-0010

Purpose and Scope of Rules

OAR 741-110-0020 through 741-110-0090 and 741-115-0010 through 741-115-0080 provide uniform standards for the location and type of protective devices to be installed and maintained at grade crossings.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0045; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-110-0020

Application of Rules to Existing Protective Devices

(1) Protective devices installed on or after the effective date of these rules shall comply with these rules.

(2) Except as required by OAR 741-110-0050(2), protective devices installed at grade crossings are deemed to be in compliance with the rules and regulations of the Department, if the installations were performed in accordance with the rules in effect at the time of their installation.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 4-8-83, Order No. 83-143; PUC 9-1983, f. & ef. 8-22-83, Order No. 83-511; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0055; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-110-0030

Standard Protective Devices

(1) The devices listed in the MUTCD and the devices listed in Sections (2), (3), (4), (5), (6), and (7) of this rule are "standard protective devices."

(2) Passive Devices:

(a) Railroad STOP Sign Figure 1 is a fixed rectangular sign that shall bear the word "STOP" in white reflective letters on red reflective material.

(b) Stop Clearance Line is a stop line as defined in Section 1A.13 of the MUTCD, which is 24 inches wide.

(c) "Illumination" (Figure 4) is a system of luminaires arranged in a unique pattern to provide direct lighting on the side of railroad equipment occupying a grade crossing during hours of darkness.

(3) Active Devices at Grade Crossings:

(a) Flashing-Light Signal is as set forth in Section 8C.02 of the MUTCD, which has an audible warning device. For additional specifications for Flashing-light signals, refer to subsections (e) and (f) of this section.

(b) Cantilevered Flashing-Light Signal is as set forth in Section 8C.02 of the MUTCD, which has an audible warning device. For additional specifications on cantilevered Flashing-light signals, refer to subsections (e) and (f) of this section.

(c) Pedestrian Flashing-Light Signal is as set forth in Section 8D.06 of the MUTCD. For additional specifications on Pedestrian Flashing-light signals, refer to subsections (e) and (f) of this section.

(d) Automatic Gate is as set forth in Section 8C.04 of the MUTCD.

(e) Light units on Flashing-light signals, Cantilevered Flashing-light signals, and Pedestrian Flashing-light signals shall be

aligned so that insofar as it is practical to do so, at least one full 12-inch diameter red light shall be visible when viewed from any point on the roadway within the safe stopping distance.

(f) Unless otherwise specified, 12-inch diameter roundels (lenses) on Flashing-light signals, Cantilevered Flashing-light signals, and Pedestrian Flashing-light signals, if incandescent bulbs are used, shall be as follows:

(A) Front light units: roundel rated with a 30-degree horizontal and 15-degree downward spread.

(B) Back light units: roundel rated with a 70-degree horizontal spread.

(C) Cantilevered front and back light units: roundel rated with a 20-degree horizontal and 32-degree downward spread.

(4) Auxiliary Devices. The Department may authorize the installation of auxiliary signs and signals at a crossing. Such devices shall be installed so as not to obscure other crossing signs or signals at the crossing.

(5) Advance Warning Devices:

(a) Train-Activated Advance Warning Device (Figure 3) is a signal that shall alternately flash two yellow lights along the highway in advance of a crossing, to provide warning of an approaching train.

(b) Skewed Angle Bicycle Warning sign is the skewed crossing (W10-12) sign in Section 8B.25 of the MUTCD. If used at pathway-rail grade crossings, the sign size depicted in Table 9B-1 of the MUTCD for a shared-use path shall be used.

(6) Guardrail is as depicted in Oregon Standard Drawing No. RD445.

(7) Curb is a standard curb as depicted in Oregon Standard Drawing No. RD700.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 4-8-83, Order No. 83-143; PUC 9-1983, f. & ef. 8-22-83, Order No. 83-511; PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0060; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0040

Location of Protective Devices

(1) Standard Protective Devices shall be located as set forth in Part 8 of the MUTCD.

(2) Railroad STOP signs (Figure 1) shall be located adjacent to the track on which the stopping requirement applies not closer than six feet nor further than 25 feet from the nearest edge of the roadway.

(3) The stop clearance line described in OAR 741-110-0030(2)(b) shall be located in accordance with the MUTCD as adopted by OAR 734-020-0005.

(4) Grade Crossing Advance warning signs and grade crossing pavement markings shall be located in accordance with the MUTCD as adopted by OAR 734-020-0005.

(5) STOP AHEAD (W3-1 or W3-1a) signs, YIELD AHEAD (W3-2 or W3-2a) signs and train-activated advance warning signals shall be located not less than 100 feet in advance of the advance warning sign. See Figure 3.

(6) Guardrails shall be located so that the face of the guardrail, at a point perpendicular to the roadway centerline, shall coincide with the outside edge of the roadway. No part of the guardrail shall be closer than 10 feet from the centerline of the nearest track.

(7) Curb shall be located on the outside edge of the roadway. Curb shall commence not less than 10 feet from centerline of nearest track and must extend 50 feet in advance of the automatic protective device.

(8) Illumination Devices. The system of luminaires shall be located at the grade crossing, as determined by field conditions, to light the side of the train during hours of darkness. See Figure 4.

(9) Overhead Mounting of Signs and Signals. At the option of the public authority, or by Order of the Department, authorized signs and signals may be installed directly over a lane of traffic on the roadway.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; PUC 9-1983, f. & ef. 8-22-83, Order No. 83-511; PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0070; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0050

Authority Required for Installation, Removal or Change of Protective Devices/Exceptions

No protective device shall be installed, removed or substituted for any other device, without prior authorization by Order of the Department, except:

(1) Additional flashing light units may be installed on existing installations of Flashing-light signals and Cantilevered Flashing-light signals by the railroad.

(2) Worn out or destroyed protective devices may be replaced by a similar device; however, the replacement shall comply with the MUTCD as adopted by OAR 734-020-0005.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; PUC 9-1983, f. & ef. 8-22-83; Order No. 83-511; PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0075; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0060

Required Installation of Specified Protective Devices

Unless otherwise ordered by the Department, the following protective devices shall be installed at the grade crossings described below.

(1) One railroad STOP sign shall be installed, where physical circumstances permit, on each track approach to each crossing equipped with Flashing-light signals, Cantilevered Flashing-light signals, Pedestrian Flashing-light signals, and automatic gates when the minimum signal activation requirement of OAR 741 110-0070(1) cannot be met.

(2) Two Number of Tracks (R15-2P) plaques shall be installed at each grade crossing consisting of two or more tracks.

(3) Stop Clearance Lines. One stop clearance line shall be installed on each paved roadway approach lane at each grade crossing.

(4) Grade Crossing Advance Warning Signs. Appropriate grade crossing advance warning signs shall be installed on each roadway approach to each grade crossing.

(5) Grade Crossing Pavement Markings. Grade crossing pavement markings shall be installed on each paved vehicle approach lane to each grade crossing.

(6) Guardrail or Curb. Guardrail or curb, as appropriate, shall be installed at each crossing equipped with active protective devices.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0080; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0070

Operation of Active Devices

(1) Activation of Devices. Unless otherwise ordered by the Department, Flashing-light signals, Cantilevered Flashing-light signals, Pedestrian Flashing-light signals, and automatic gates shall be activated by approaching trains through control circuitry in such a manner as will provide a warning through continuous signal operation for a period of not less than 20 seconds nor more than 40 seconds before the arrival of a train traveling at the highest speed permissible over that particular track. Prolonged signal operation shall be avoided by reasonable operating and engineering practices.

(2) Cessation of Operation. The warning aspect of Flashing-light signals, Cantilevered Flashing-light signals, Pedestrian Flashing-light signals, and automatic gates shall cease operation immediately after the passage of the train over the roadway unless

approach circuits on adjacent tracks are occupied by an oncoming train.

(3) Advance Preemption or other appropriate methods shall be used to provide a pedestrian clear-out interval (PCOI) before the vehicle clear-out interval (VCOI).

(a) When a VCOI is required, the indication for the track clearance phases shall be GREEN.

(b) The road authority may submit an engineering study to the State Traffic Engineer to request a deviation from the standards. The State Traffic Engineer, together with the ODOT Rail and Public Transit Division, Crossing Safety Section Manager, may authorize a signalized intersection operation consistent with the findings of the study.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0090; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0080

Observance of Railroad Stop Signs

When Railroad STOP signs are installed, traffic on the railroad shall stop prior to entering the roadway and proceed when safe to do so, but not before automatic gate arms have fully lowered, or (in the case of a highway-rail grade crossing not equipped with automatic gates) not before active protective devices, if any, at the crossing have been fully activated for a period of not less than 20 seconds.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stats Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0096; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0090

Maintenance and Replacement of Protective Devices

Protective devices installed at grade crossings shall be maintained in satisfactory condition, location and in proper alignment. Signs shall be legible at all times. Signal lenses shall be visible as required in OAR 741 110 0030(3)(e). After notification of damage, destruction, failure or malfunction of a protective device, the party responsible for its maintenance shall promptly replace or repair the device, and adequately protect the crossing in the interim.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.204 & 824.206

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0105; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

DIVISION 115

ALLOCATION OF MONIES TO DEFRAY COSTS OF MAINTAINING ACTIVE PROTECTIVE DEVICES AT RAILROAD-HIGHWAY CROSSINGS

741-115-0010

Definitions

(1) Signal Maintenance Units (SMU) are defined in the **American Railway Engineering and Maintenance of Way Association Communication and Signals Manual (2000 Edition)**.

(2) "Active Protective Devices" mean any devices described in OAR 741-110-0030(3) or vehicle traffic signals.

(3) "Eligible Railroad" means a railroad as defined in ORS 824.020, which bears the costs of maintaining one or more active protective devices at highway-rail grade crossings and which is entitled, under ORS 824.018, to partial reimbursement for those costs. Public transit districts are not eligible for such reimbursement.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.018

Hist.: PUC 10-1992, f. & cert. ef. 6-8-92, Order No. 92-790; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0107; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0020

Procedure for Allocation of Monies

(1) Apportionment Factors to allocate funds from the Grade Crossing Protection Account to defray the costs of maintaining active protective devices at highway-rail grade crossings, pursuant to ORS 824.018, shall be apportioned based on SMU units. The calculation for reimbursement to each eligible railroad shall be apportioned based upon total SMU units maintained by the railroad divided by the total SMU units reported for all railroads that maintain active protective devices at highway-rail grade crossings in the state.

(2) Reimbursement Procedure. On or before January 31 of each year, the Department shall determine the unit counts, as defined in section (1) of this rule, at highway-rail grade crossings equipped with active protective devices. The Department shall, based on those units, apportion funds from the Grade Crossing Protection Account to partially reimburse eligible railroads for expenses incurred in the preceding year to maintain the devices at those crossings. The amount distributed shall equal \$100,000.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.018

Hist.: PUC 10-1992, f. & cert. ef. 6-8-92, Order No. 92-790; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0108; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0030

Responsibility for Installation and Maintenance of Protective Devices

Unless otherwise ordered by the Department, or unless the parties agree otherwise, the party responsible for the installation and maintenance of protective devices at a grade crossing is as set forth in Table 2. At grade crossings with interconnected vehicle traffic signals, the responsibilities are shared between the railroad and the public authority. The railroad shall install and maintain the circuitry located on the track and its connection to the outside of the railroad signal case. The railroad shall provide appropriate electrical contacts to the public authority. The railroad shall install and maintain "DO NOT STOP ON TRACKS" (R8-8) signs on Cantilevered Flashing light signals pursuant to OAR 741-110-0040(9). The public authority shall install and maintain all other signs, signals and circuitry connected to the outside of the railroad signal case to assure proper operation of the subject device.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200 & 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; PUC 9-1983, f. & ef. 8-22-83, Order No. 83-511; PUC 3-1985, f. & ef. 4-8-85; Order No. 85-291; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0114; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0040

Special Requirements for Traffic Signal Preemption Control

(1) Each public authority with responsibility for maintaining a vehicle traffic signal system interconnected with active protective devices at an adjacent grade crossing shall:

(a) Install the notice, provided by the Department, in the traffic signal cabinet.

(b) Install a "DO NOT STOP ON TRACKS" (R8-8) sign (see Figure 2) capable of holding three flags.

(c) When the railroad preemption feature fails and cannot be repaired within 30 minutes, install flags on the "DO NOT STOP ON TRACKS" (R8-8) signs (see Figure 2) and/or provide manual flag protection alerting motorists of the potential hazard.

(d) Remove the flags required in subsection (c) of this section upon completion of repairs to the railroad preemption feature.

(2) Upon notification of failure of the railroad preemption feature at a crossing equipped with an interconnected vehicle traffic signal system, the railroad shall immediately issue appropriate instructions to all train and switch crews operating over the crossing to be alert for trapped vehicles when approaching the crossing.

(3) The appropriate public authority will provide the Department with a report within 15 days of any signal interconnection malfunction reported to the railroad dispatcher.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0116; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0050

Experimental Devices

The Department anticipates new active or passive devices may become available as technology advances. Such devices should be field tested on a limited basis and evaluated statistically to determine their effectiveness. As such devices may be of mutual interest and responsibility, such tests may be made jointly by the Department or railroad or the public authority in interest.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0117; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-115-0060

Stop Signs at Private Crossings

(1) Unless otherwise ordered by the Department under ORS 824.224, the railroad shall cause to be installed one vehicle stop sign (24-inch minimum) on each side of any private or farm crossing at grade that is not equipped with automatic protective devices.

(2) The railroad shall also cause to be installed an auxiliary sign identifying the crossing as a private crossing by stating the words "PRIVATE CROSSING" in letters at least two inches high. The color of the sign shall be black letters on a white background (see Figure 5). Optional information such as the words "NO TRESPASSING," the name of the railroad from which permission must be secured for use of the crossing and permit number may be included on the auxiliary sign.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.224

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0120; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0070

Bicycle Lane and Multi-use Path Construction

(1) Bicycle facilities shall intersect railroad tracks as close to 90 degrees as possible.

(2) Pathway grade crossings or bicycle lanes that have angles of intersection with railroad tracks of 60 to 74 degrees shall have a skewed crossing (W10-12) sign posted on each approach to the crossing.

(3) Pathway grade crossings or bicycle lanes that have angles of intersection with railroad tracks of 59 degrees or less shall require an engineering study.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.212

Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0080

Vegetation Control at Grade Crossings

(1) The railroad shall control vegetation on its right-of-way for a distance of 250 feet in each direction from the edge of the crossing surface and for a distance of 50 feet in each direction from the centerline of the nearest track or to the edge of the railroad's right-of-way, whichever is less, so that the vegetation does not obstruct motorists' view of approaching trains.

(2) The public authority shall control vegetation on its right-of-way within the SSD and within its right-of-way.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.212

DIVISION 120

**MAINTENANCE, CONSTRUCTION
AND CLOSURE OF CROSSINGS**

741-120-0010

Responsibility for Maintenance of Grade Crossings

(1) Unless otherwise ordered by the Department, or unless the parties agree otherwise, the railroad is responsible for maintaining that portion of the crossing lying between lines drawn perpendicular to the end of ties of each track at the crossing.

(2) The public authority is responsible for maintaining the remaining portion of the highway at the crossing.

(3) Additional construction and maintenance costs necessary to comply with OAR 741-120-0020 resulting from a change in elevation of the railroad tracks or a change in elevation of the roadway at the crossing shall be borne by the party initiating the change.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0210; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-120-0020

Grade Crossing Construction and Maintenance

(1) At all new or altered grade crossings used by motor vehicles, bicycles, or pedestrians, the roadway or multi-use path shall be constructed to conform to or exceed nationally recognized and commonly used construction standards.

(2) The width of the crossing surface, including sidewalks, at the crossing shall be not less than the width of the roadway, and sidewalk, approaches to the crossing.

(3) Unless authorized in writing by the Department, the surface of the roadway shall be in the same plane as the top of rails for a distance of at least two feet outside the rails, and not more than three inches higher nor three inches lower than the top of the nearest rail at a point thirty feet from the rail, measured at right angles thereto.

(4) The surface of each grade crossing shall conform to the plane of the top of the rails and be constructed and maintained in a reasonably smooth condition.

(5) The railroad shall notify the public authority at least four weeks in advance of the date it intends to raise or lower the elevation of one or more tracks at the crossing.

(6) The public authority shall notify the railroad at least four weeks in advance of the date it intends to raise or lower the elevation of its roadway on the roadway approach to the crossing. See Section 8A.08 of the MUTCD.

(7) Upon notification by the Department of a condition that does not conform to the requirements of sections (1) through (5) of this rule, the railroad or the public authority, within 30 days of such notification, unless any party requests a hearing, shall bring its portion of the crossing into compliance with the provisions of this rule, unless a time extension is granted in writing by the Department. See OAR 741-120-0010.

(8) The construction of new driveways within 100 feet of any railroad track at existing grade crossings requires an application for authority to alter a grade crossing under ORS 824.206, except for railroad right-of-way roads.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stats. Implemented: ORS 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0215; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-120-0025

Sidewalk Construction and Maintenance

(1) All new or altered sidewalks at grade crossings shall be constructed to meet minimum standards, but shall be not less than five feet in width.

(2) The surface of a sidewalk shall conform to the plane of the top of the rails, and be constructed and maintained in a reasonably smooth condition.

(3) At crossings equipped with automatic protective devices, sidewalks shall be directed behind the devices at a distance of not less than five feet, as measured from the centerline of the signal mast to the nearest edge of the sidewalk.

(4) Upon written notification by the Department of a condition that does not conform to the requirements of sections (2) through (3) of this rule, the railroad or public authority shall bring its portion of the sidewalk at a grade crossing into compliance with the provisions of this rule, unless a time extension is granted in writing by the Department. The work shall be commenced within 30 days of such notification, unless any party requests a hearing.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.212

Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-120-0030

Separated Crossing Construction and Maintenance

(1) All new or altered separated crossing structures shall be constructed to conform to or exceed nationally recognized and commonly used construction standards.

(2) Separated crossing structures, including the roadway surface, shall be maintained in good and safe condition.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.210 & 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0225; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-120-0040

Authority for Closure of Crossings and Removal of Tracks at Crossings

(1) Permanent Closure of Roadway at Crossings. Whenever a crossing is permanently closed to the traveling public, the public authority at the crossing shall notify the Department of the closure and comply with OAR 741-120-0050. After such closure has been accomplished, the roadway cannot be reopened without the authority of the Department pursuant to ORS 824.204 or 824.210.

(2) Temporary Closure of Roadway at Crossings by the Railroad. When a railroad desires to close a highway-rail crossing temporarily, it shall provide to the public authority at least four weeks advance notification of its intent to close the crossing. The railroad may provide the road authority less than four weeks advance notice of its intent to temporarily close the grade crossing, if the temporary closure is needed for emergency circumstances. See Section 8A.08 of the MUTCD.

(3) Discontinuance of Railroad Operations at Crossings. Whenever railroad use of a crossing is to be discontinued in accordance with federal requirements, the owner of the track at the crossing and the railroad operating over such track shall notify the Department of the discontinuance.

(4) Removal of Trackage at Crossings. Whenever one or more tracks are to be removed at a grade crossing, the railroad operating over such trackage shall file an application to alter the crossing under ORS 824.206.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.206

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; PUC 9-1983, f. & ef. 8-22-83, Order No. 83-511; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0235; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-120-0050

Permanent Closure and Removal of Grade Crossings

(1) Construction of Barricades. Whenever a grade crossing is closed to use by the travelling public, a barricade or other appropriate obstruction sufficient to prevent use of the crossing by the travelling public shall be installed and maintained in good condition on each roadway or pathway approach to the crossing. Barricade width shall be a minimum of the width of the roadway, sidewalks and shoulders. Barricades shall be installed and maintained by the public authority. The cost of construction shall be borne by

the railroad; maintenance cost shall be borne by the public authority.

(2) Removal of Crossing Surface. Whenever a grade crossing is closed to use by the travelling public, the railroad, after installation of required barricades, shall promptly remove all roadway surface and sidewalk material from the area between lines drawn perpendicular to the end of ties of each track at the crossing.

(3) Removal of Railroad Tracks. Whenever a grade crossing, or one or more tracks is closed to use by railroad equipment, the tracks (including rails and ties) shall be removed and the roadway surface and sidewalks restored by the railroad within twelve months from the time the track is closed to use by railroad equipment.

(4) Removal of Protective Devices. Whenever a grade crossing is closed to use by the travelling public or by railroad equipment, protective devices shall be promptly removed by the party responsible for their maintenance as specified in the crossing Order or Table 2 of these rules.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.206

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0240; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

DIVISION 125

CROSSING BLOCKAGE, WHISTLES AND SETBACK

741-125-0030

Railroad Equipment Set Back from Railroad-Highway Grade Crossings

(1) Except as provided in section (2) or (3) of this rule, no railroad shall cause any rail cars, locomotives or other railroad equipment to be stopped, stored or left standing within 250 feet of a public highway-rail grade crossing where there is an adjacent track.

(2) The set back limitation set forth in section (1) of this rule does not apply when:

(a) The crossing is equipped with active warning devices;

(b) The train is stopped by an emergency condition not under the control of the railroad; or

(c) A railroad employee is physically at the crossing and providing flagging protection for the crossing.

(3) The Department, after hearing, unless not required by ORS 824.214, may grant a reasonable and necessary variance from the limitation set forth in section (1) of this rule upon proper application by a person, railroad or public authority in interest.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.223

Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

DIVISION 200

APPLICATIONS

741-200-0010

Purpose

To provide procedures to apply for authority to construct, relocate, alter or close crossing.

Stat. Auth.: ORS 823 & 824

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0005; RD 1-2009, f. & cert. ef. 2-20-09

741-200-0020

Applications Required

Except where formal proceedings are initiated by the Rail and Public Transit Division of the Department and except as provided in OAR 741-110-0050 and 741-120-0040, an application for authority must be filed with the Department to:

(1) Construct, relocate or alter a sidewalk, multi-use path or roadway across one or more railroad tracks at grade;

(2) Construct or relocate one or more railroad tracks across a sidewalk, multi-use path or roadway at grade; or

(3) Construct, relocate or alter a separated crossing of a sidewalk, multi-use path or roadway.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.204, 824.206 & 824.210

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0011; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-200-0030

Persons Who May Make Application

Pursuant to ORS Chapter 824, only a railroad company or the public authority in interest may file an application for authority to construct, relocate, alter or close a crossing.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0025; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-200-0040

Form of Applications

(1) Applications shall be filed on forms approved by the Department.

(2) An original application and attachments must be filed with the Rail Division of the Department.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.204, 824.206 & 824.210

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0040; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-200-0050

Information to Accompany Application

Unless exceptions have been authorized pursuant to OAR 741-200-0060, each application shall be accompanied by an engineered plan (drawing). The plan shall include:

(1) A vicinity map, drawn to scale, showing in detail the vicinity of the crossing, project site and surrounding area road grid. The map shall show:

(a) The angle of intersection of the centerlines of railroad and roadway. In cases where such intersection is on a curved section of roadway or railroad, the angle of intersection shall be the angle formed by a tangent to the curve or curves at the point of intersection;

(b) The right-of-way lines of the roadway and the railroad;

(c) The location of all public and private crossings within the limits of the map;

(d) The location of all structures or other obstructions to vision that are between approaching vehicles and trains;

(e) The location of all signs and signals that govern the flow of rail or roadway traffic within the safe stopping distance and the location of all railroad signs and signals within the grade crossing approach circuit; and

(f) Maximum distance of unobstructed view along the tracks, indicated by sight lines drawn from:

(A) Points on the roadway 18 feet on each side of the centerline of the nearest track; and

(B) Points on the roadway at the distance from the centerline of the nearest track in accordance with the table of safe stopping distances.

(2) Drawings for Active Protective Devices. When active protective devices are to be installed or altered, a drawing (scale of 1 inch = 20 feet is recommended) shall be provided showing the location of proposed signal foundations in relation to distances from centerlines of highway and nearest railroad track. This drawing shall also show the proposed position of other related structures and devices such as guardrails, shoulders of roadway, curbs of roadway and part-time turn restriction signals.

(3) Vehicle Traffic Signal Plan (if applicable) with Operation Description.

(4) Roadway Profile. A profile showing, to scale, the grade of the roadway within the safe stopping distance on each side of the crossing.

(5) Railroad Profile. A profile showing the track profile within 250 feet of the crossing.

(6) Drawings for Separated Crossings. All applications to construct or alter separated structures shall include engineered drawings showing the vertical and horizontal clearances above and adjacent to the railroad tracks that will exist upon completion. Such clearances shall not be less than those prescribed in CFR 646.212(a)(3) as stated in the Appendix to Subpart B of Part 646—Horizontal and Vertical Clearance Provisions for Overpass and Underpass StructuresBU.

(7) Drawings for Undercrossings. All applications to construct or alter undercrossings shall include engineered drawings showing the clearances beneath the structure that will be provided for roadway use. Minimum clearances shall comply with AASHTO.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.204, 824.206 & 824.210

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0045; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-200-0060

Application Alternative

Upon approval of Rail and Public Transit Division management staff, certain requirements of OAR 741-200-0050 may be waived.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0046; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-200-0065

Submittal Process

Application and application materials may be submitted electronically or in hard copy format.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220, 84.022, 84.025

Stats. Implemented: ORS 824.202

Hist.: RD 1-2009, f. & cert. ef. 2-20-09

741-200-0080

Assignment of Responsibility for Continuing Costs

Cost responsibility for the maintenance of facilities associated with any project for which an application is filed pursuant to these rules shall be assigned to a railroad or the public authority in interest.

Stat. Auth.: ORS 823 & 824

Stats. Implemented: ORS 824.244

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0060

741-200-0090

Expiration of Authority to Construct Crossings

Authority to construct a crossing expires two years from the effective date of the Order granting such authority unless the authorized construction is substantially in progress within that period or within such additional period as may have been provided by Order of the Department.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.204

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; PUC 5-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0065; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

DIVISION 300

MINIMUM CLEARANCES — GENERAL

741-300-0011

Definitions

(1) “Department” means the Oregon Department of Transportation in all rules contained in chapter 741, divisions 300 through 335.

(2) “Ladder Tracks” are lead and main switching tracks in yards and switching areas from which yard tracks extend for switching or storing railroad equipment.

(3) “Main Track” is a track extending through yards and between stations that must not be occupied without authority or protection.

(4) “Overhead Clearance” is that distance measured vertically from the top of rail to the lowest point of the structure or obstruction overhead.

(5) “Railroad” as defined by ORS 824.020(2)(a) and (b), applies to all rules contained in chapter 741, divisions 300 through 335.

(6) “Retractable Platforms” are platforms which are firmly attached to a permanent structure, and retract when not in use.

(7) “Side Clearance” is the shortest distance from the centerline of the track to a structure or obstruction above top of rail at the side of the track.

(8) “Track Centers” are the shortest distance between the centerlines of adjacent tracks.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0015; RS 2-1998, f. & cert. ef. 8-20-98, Renumbered from 741-300-0040

741-300-0021

Applicability of Rules

(1) The minimum clearance rules apply to construction completed on or after January 1, 1982.

(2) Except as provided in section (3) of this rule, construction completed before January 1, 1982, shall comply with the minimum clearance rules or orders in effect at the time such construction was completed.

(3) Signs conforming to OAR 741-330-0010 shall be installed and maintained in cases where the minimum clearance rules or orders in effect at the completion of construction are less stringent than those currently in effect.

(4) Unless otherwise authorized by the Department, a railroad is prohibited from moving freight cars, locomotives, or other rolling equipment over tracks where the clearances are less than those prescribed in the minimum clearance rules.

(5) The minimum clearance rules apply to each railroad owning and capitalizing railroad trackage, and each person or unit of government owning, leasing or holding a salvage interest in railroad trackage.

(6) No facility shall be constructed or altered in such a manner that it does not comply with the minimum clearance rules unless authorized by order of the Department.

(7) A railroad operating on its own or on another railroad’s property, shall comply with all the rules contained in chapter 741, divisions 300 through 335, and any order issued by the Department or any predecessor agency, for that portion of the railroad facility upon with it is operating.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0005; RS 2-1998, f. & cert. ef. 8-20-98, Renumbered from 741-300-0010; RD 1-2006, f. & cert. ef. 8-28-06

741-300-0031

Standards for Granting Variances

The primary purpose of ORS 824.052, and the track clearance standards adopted by the Department thereunder, is to protect the safety of railroad employees. However, subsection (2) of ORS 824.052 authorizes the Department to permit variances from the clearance standards for “good cause.” “Good cause,” for purposes of variances from the Department’s clearance standards, exists if:

(1) The risk to railroad employee safety caused by the non-standard condition(s) will not be significantly greater than the risk railroad employees would ordinarily encounter if the facility was in compliance with the clearance standards;

(2) The degree of impairment to railroad employee safety does not justify the expense of bringing the facility into compliance with the clearance standards; or

(3) Other useful purposes served by the nonstandard condition(s) outweigh the impairment to railroad employee safety.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 11-1983, f. & ef. 10-6-83, Order No. 83-620; PUC 2-1984, f. & ef. 2-10-84, Order No. 84-091; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0008; RS 2-1998, f. & cert. ef. 8-20-98, Renumbered from 741-300-0020

741-300-0041

Applications for Variances and Operation Restrictions

(1) An application for a variance from standard clearances shall contain a statement of the condition(s), the reason(s) for the request, and the estimated cost of bringing the facility involved into full compliance with the clearance standards. Application forms may be obtained from the Department, or online at “www.oregon.gov/odot/rail/railemployeesafety.shtml”. Applications must be filed with the Department within 30 days of the date the Department documents the nonstandard condition(s). Incomplete applications will be returned.

(2) In lieu of requesting a variance from the clearance standards, if railroad employee safety will not be impaired, the owner or lessee of a track on which service is provided to no other businesses may restrict operations over any portion of the track by posting an operation restriction sign, conforming to OAR 741-330-0010(2). Signs shall be located on each side of the track, facing incoming railroad movements, at a point beyond which no railroad employee may go or move equipment. The person posting the signs shall notify the Department and each railroad that provides service over the track of the intent to restrict operations. Notification shall be furnished in writing to the Department and to each railroad at least two weeks in advance of installation of the operation restriction signs.

(3) In lieu of requesting a variance from the clearance standards, if neither railroad service to another rail user nor railroad employee safety will be impaired, the owner or lessee of a track on which service is provided to one or more other businesses may apply to the Department (copy to the affected railroad) for written approval to restrict operations over any portion of the track by use of an operation restriction sign conforming to OAR 741-330-0010(2). Signs shall be located on each side of the track facing incoming railroad movements, at a point beyond which no railroad employee may go or move equipment. Following railroad comment the Department may act upon the application as circumstances warrant. If the application is approved, the person permitted to install such signs shall notify the Department and each affected railroad in writing of the fact of installation at least two weeks in advance of intended operation.

(4) Upon receipt of the foregoing notification of installation, each affected railroad shall immediately instruct its operating employees in writing, by special instruction or timetable bulletin, not to go or move equipment beyond the point at which the operation restriction signs are posted.

(5) An owner or lessee of a track shall not remove an operation restriction sign unless the facility is in full compliance with the clearance rules or unless the Department has approved an application for a variance.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83 (Order No. 83-242); PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0010; RS 2-1998, f. & cert. ef. 8-20-98, Renumbered from 741-300-0030; RD 1-2006, f. & cert. ef. 8-28-06

741-300-0050

Temporarily Impaired Clearances

(1) The minimum clearance rules do not apply:

(a) During construction or maintenance of the railroad, if restricted clearances are caused by materials and/or equipment nec-

essary to the construction or maintenance, and if all rail movements are conducted in a safe manner; or

(b) During periods of emergency due to derailments, wrecks, washouts and like conditions, provided all rail movements are conducted in a safe manner.

(2) When materials and/or equipment do not comply with the minimum clearance rules, as allowed by section (1) of this rule, railroad employees shall be notified immediately and written notice issued to them within 24 hours, with a copy to the Department. Unless authorized by the Department, impairments shall not be allowed to exist for a period exceeding 30 days, unless all reasonable efforts are being made to complete the work as soon as is possible.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0016; RS 2-1998, f. & cert. ef. 8-20-98

741-300-0060

Authorization for Impaired Clearances

If written notice has been given to the Department and the written consent of the railroad has been obtained, the minimum clearance rules do not apply:

(1) For such tracks, buildings, facilities, structures, or rolling equipment operated exclusively for the loading and unloading of logs, and signs conforming to OAR 741-330-0010(1) are installed;

(2) For wood chip loading and other loading facilities which, when operated, impair minimum overhead clearance, provided such facilities are retracted to minimum clearance when not in operation and signs conforming to OAR 741-330-0010(1) are installed;

(3) For retractable platforms which, when operated, impair minimum side clearance, provided such platforms are retracted to minimum clearance when not in operation; or

(4) For dumping devices for offloading the contents of cars, provided prior notice of the installation of such devices is given to the Department and provided signs conforming to OAR 741-330-0010 (as appropriate) are installed.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 6-1983, f. & ef. 6-13-83, Order No. 83-313; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0017; RS 2-1998, f. & cert. ef. 8-20-98

DIVISION 305

OVERHEAD CLEARANCES

NOTE: The overhead clearances set forth in these rules are minimum requirements established for employee safety. Nothing in these rules shall prohibit a railroad from requiring greater clearances.

741-305-0010

Minimum Overhead Clearance

(1) Except as provided in section (2) of this rule, all overhead clearance shall be at least 20 feet 9 inches above the top of rail.

(2) Minimum clearance may be decreased to the extent defined by a half-circumference of a circle having a radius of 8 feet 6 inches with its center at a point 14 feet above top of rail and directly over centerline of track.

(3) The overhead clearances set forth in these rules are minimum requirements established for employee safety. Nothing in these rules shall prohibit a railroad from requiring greater clearances.

(4) See Figures 305-1 and 305-3 for a diagram of minimum clearances. For bridges and tunnels see OAR 741-310-0040(2).

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0055; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-305-0020

Buildings

(1) With the exception of engine houses and car repair shops, when tracks terminate within enclosed buildings, all overhead clearances shall be at least 18 feet above the top of rail. In all cases where clearances of less than 20 feet 9 inches exist in buildings, all cars, locomotives or other equipment shall be brought to a stop before entering. "STOP" signs conforming to OAR 741-330-0010(3) shall be installed.

(2) See Figure 305-2 for a diagram of minimum clearance inside buildings. For overhead clearances through bridges and tunnels, see OAR 741-310-0040(2).

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-00060; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

DIVISION 310

SIDE CLEARANCES

NOTE: The side clearances set forth in these rules are minimum requirements established for employee safety. Nothing in these rules shall prohibit a railroad from requiring greater clearances.

741-310-0010

In General

(1) Except as otherwise provided, all side clearance shall be at least 8 feet 6 inches, as measured from centerline of track.

(2) The side clearances set forth in these rules are minimum requirements established for employee safety. Nothing in these rules shall prohibit a railroad from requiring greater clearances.

(3) See Figure 305-1 and Figure 310-1 for diagrams of the minimum side clearances.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0105; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-310-0020

Side Clearance for Curved Track

(1) Minimum side clearance for objects adjacent to curved track constructed on or after May 3, 1983, covered by OAR 741-310-0010 through 741-310-0050, shall be increased at the rate of 1/2 inch per degree of curvature above that prescribed for tangent track.

(2) The Department recommends that minimum side clearance for curved tracks, covered by OAR 741-310-0010 through 741-310-0050, be at least 12 inches greater than that prescribed for tangent track.

(3) See Figure 305-1 and Figure 310-1 for diagrams of the minimum side clearances.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 6-1983, f. & ef. 6-13-83, Order No. 83-313; PUC 4-1990, f. & cert. ef. 4-17-90, Order No. 90-488; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0106; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-310-0030

Platforms

(1) Minimum side clearances for platforms as measured from centerline of track shall be: Description — Minimum Clearance:

(a) Platforms constructed 8 inches or less above top of rail at greatest height — 4 feet 8 inches;

(b) Platforms constructed in excess of 8 inches but 4 feet or less above top of rail at greatest height — 7 feet 3 inches;

(c) Platforms constructed prior to January 1, 1982, in excess

of 4 feet but 4 feet 6 inches or less above top of rail at greatest height — 8 feet.

(2) All platforms, except as described in subsection (3)(b) of this rule, shall have a continuous regular surface extending out to a point at least 8 feet 6 inches from centerline of track.

(3)(a) See Figure 310-2 for diagrams of the minimum clearances for platforms.

(b) Platforms described in subsection (1)(a) of this rule may be combined with a platform described in subsection (1)(b) or (c) of this rule, provided the lower platform is level from the clear point (4 feet 8 inches from centerline of track) to track side face of the upper platform. See Figure 305-1 and Figure 310-3.

(c) Platforms described in subsection (1)(a) of this rule may create a walkway condition that requires compliance with OAR 741-320-0070(1).

(d) The Department recommends that platforms described in subsection (1)(b) of this rule, which consists of a cantilever dock or otherwise elevated platform, should have the ends facing approaching train movements, painted with fluorescent paint or reflectorized material to warn train crews of the obstruction.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef.

5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from

860-044-0110; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef.

8-28-06

741-310-0040**Bridges and Tunnels**

(1) Except as provided in sections (2) and (3) of this rule, side clearance for bridges and tunnels is 8 feet as measured from centerline of track.

(2) Minimum side clearance in tunnels and through bridges may be decreased, above 14 feet 6 inches, to the extent defined by a half-circumference of a circle having a radius of 8 feet with its center at a point 14 feet 6 inches above top of rail directly over the centerline of track. This rule does not alter the 20 feet 9 inches overhead clearance requirement of OAR 741-305-0010.

(3) Except where walkways are used by employees engaged in switching, the minimum side clearance does not apply to the lower section of a bridge so long as no part of the structure falls inside an encroachment line drawn from a point 5 feet from centerline of track and level with top of rail, diagonally upward to a point 8 feet from centerline of track at a height 4 feet above top of rail.

(4) See Figure 310-3 for a diagram of minimum clearances for tunnels and through bridges. See Figure 310-4 for a diagram of minimum clearances for the lower section of bridges.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-24; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0115; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-310-0050**Miscellaneous Structures**

The minimum side clearance for the following structure is:

Description — Minimum Clearance:

(1) Cattle guards and cattle chutes — OAR 741-310-0040(3) applies.

(2) Refuge platform — 8 feet (OAR 741-310-0040(3) applies to bracing for platform railing).

(3) Block signals on bridges and trestles — 8 feet.

(4) Handrails on bridges and trestles 44 inches high or less — 7 feet 9 inches.

(5) Interlocking mechanisms including all devices at switches used for the control of signals or protective devices at crossings 4 inches high or less above top of rail — 3 feet from centerline of track or located adjacent to switch stand. Interlocking mechanisms 4 inches high or less above top of rail at power switches and spring switches require no minimum clearance. This section applies only to interlocking mechanisms located at or above top of rail.

(6) Signals, switch stands, and switch housings constructed 3 feet high or less above top of rail — 6 feet. Power switches require no minimum clearance. This section applies only to signals, switch stands and switch housings which are at or above top of rail.

(7) Engine Service Facilities:

(a) Engine house doors — 6 feet 3 inches;

(b) Inside engine houses — 5 feet 5 inches;

(c) Outside engine service facilities — 6 feet 6 inches;

(d) Oil, sand and/or water columns, used exclusively for engine servicing — 8 feet.

(8) See **Figure 310-5** for a diagram of minimum clearances on miscellaneous structures.

(9) Overhead wires, used to transmit electric energy, and the poles that support them, should have a minimum clearance of not less than that specified by the 2002 edition of the *National Electric Safety Code, part 2*, "Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines", Section 23, "Clearances", approved by the American National Standards Institute.

[ED. NOTE: Figures referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.052

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 6-1983 f. & ef. 6-13-83, Order No. 83-313; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0120; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

DIVISION 315**TRACK CENTERS**

NOTE: The track centers set forth in these rules are minimum requirements established for employee safety. Nothing in these rules shall prohibit a railroad from requiring greater distances.

741-315-0010**Track Centers**

(1) The following track centers are minimum required distances between the centerlines of tangent tracks: **Type of Track — Track Centers:**

(a) Between main tracks or between a main track and a subsidiary track, other than a ladder track — 15 feet;

(b) Between parallel ladder tracks or between ladder tracks and other tracks — 20 feet;

(c) Between tangent tracks not otherwise specified — 14 feet.

(2) Minimum track centers for curved track constructed prior to April 29, 1983, shall be at least 1/2 inch per degree of curvature greater than that prescribed for tangent tracks.

(3) Track centers on tracks for which 14 feet minimum track centers are required on tangent track shall be increased from 14 feet at the rate of 1 1/2 inches per degree of curvature.

(4) Track centers on tracks for which 15 feet minimum track centers are required on tangent track shall be increased from 15 feet at the rate of 1 1/2 inches per degree of curvature in excess of eight degrees.

(5) The track centers set forth in these rules are minimum requirements established for employee safety. Nothing in these rules shall prohibit a railroad from requiring greater distances.

(6) See **Figure 315-1** for a diagram of minimum clearances for track centers.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0155; RS 2-1998, f. & cert. ef. 8-20-98; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

DIVISION 320**STANDARD WALKWAYS****741-320-0010****Applicability of Rules**

(1) Except as provided in section (2) of this rule, the walkway rules shall apply to each railroad owning and capitalizing railroad trackage, and each person or unit of government owning, leasing or holding a salvage interest in railroad trackage.

(2) OAR 741-320-0060(4) shall apply to those occupying property adjacent to railroad trackage, in addition to those entities or persons set forth in section (1) of this rule.

(3) The Department may order walkways conforming to OAR 741-320-0080 be constructed and maintained along one or both sides of any railroad track, structure, or railway tunnel where not otherwise required by these rules, only after notice to the affected railroad and hearing (in case of dispute).

(4) Except as approved by the Department, no railroad track or structure shall be placed in service until walkways have been provided that are in compliance with the applicable standard and notice is given to the Department.

(5) Other than for routine maintenance, any structure altered or rebuilt shall be equipped with a walkway on at least one side conforming to standards set forth in OAR 741-320-0130.

(6) A railroad operating on its own or another railroad's property shall comply with all the rules contained in chapter 741, divisions 300 through 335, and any order issued by the Department or any predecessor agency, for that portion of the railroad facility upon which it is operating.

(7) These rules do not apply:

(a) During periods of new track construction, maintenance, repair, renewal, reconstruction, or alteration of a right-of-way, track, or structure, where obstruction or removal of a walkway is unavoidable, provided affected railroad personnel are given prior written notice and provided walkways are returned to standard upon completion of the work. Unless authorized by the Department, non-standard walkways shall not exist for a period exceeding 30 days, unless all reasonable efforts are being made to complete the work as soon as is possible;

(b) During periods of heavy rain or snow, derailments, rock and earth slides, washouts, and like unforeseen conditions, including a reasonable time to permit necessary restorations.

(c) During periods of new construction of industry tracks, not to exceed 15 calendar days from date of first use without written consent of the Department, provided written notice is given to all affected railroad employees and to the Department; or

(d) At locations where the Department or the Public Utility Commission has authorized an impairment of standard clearance for a permanent obstruction, which has been placed or constructed alongside a track in such a location as to block the walkway partially or to prevent construction of the applicable standard walkway, the available space between the impairing obstruction and the track shall meet the applicable walkway standard in every respect except as prevented by the impairment.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 4-1990, f. & cert. ef. 4-17-90, Order No. 90-488; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0180; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0020

Definitions

As used in OAR 741-320-0010 through 741-320-0170, 741-325-0010, 741-330-0010 through 741-330-0040 and 741-335-0010 through 741-335-0050, unless the context requires otherwise:

(1) "Structure" is any bridge or trestle on which a railroad track is constructed.

(2) "Walkway" is a pathway located alongside or in the vicinity of a railroad track for the purpose of providing an area for railroad employees to perform their normal trackside duties.

(3) "Inside edge of a walkway" is that edge of a walkway closest to the nearest rail of the track for which the walkway is constructed.

(4) "Yard" is a system of tracks other than main tracks and sidings used for making up trains, storing cars and other purposes including the inspection, repair and cleaning of cars.

(5) "Railroad shop or repair track" is a fixed repair facility or track that is regularly and consistently used to perform major repairs, regardless of whether a mobile repair vehicle is used to conduct the repairs.

(6) "Major repair" means a repair that normally requires greater than four person-hours to accomplish or involves the use of specialized tools and equipment. Major repairs include such activities as coupler replacement, draft gear repair, and repairs requiring the use of an air jack but exclude changing wheels on intermodal loading ramps either with or without an air jack.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0190; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0040

Standards for Granting Variances

The primary purpose of ORS 824.056, and the walkway standards adopted by the Department is to protect the safety of railroad employees. However, subsection (2) of ORS 824.056 authorizes the Department to permit variances from the walkway standards for "good cause" shown. "Good cause," for purposes of variances from the Department walkway standards, exists if:

(1) The risk to railroad employee safety caused by the non-standard condition(s) will not be significantly greater than the risk railroad employees would ordinarily encounter if the facility was in compliance with the walkway standards;

(2) The degree of impairment to railroad employee safety does not justify the expense of bringing the facility into compliance with the walkway standards; or

(3) Other useful purposes served by the nonstandard condition(s) outweigh the impairment to railroad employee safety.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 11-1983, f. & ef. 10-6-83, Order No. 83-620; PUC 2-1984, f. & ef. 2-10-84, Order No. 84-091; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0245; RS 2-1998, f. & cert. ef. 8-20-98

741-320-0050

Applications for Variances and Operation Restriction(s)

(1) An application for a variance from standard walkways shall contain a statement of the condition(s) involved, the reasons for the request, and the estimated cost of bringing the facility involved into full compliance with the walkway standards. Applications may be obtained from the Department, or online at "www.oregon.gov/odot/rail/railemployeesafety.shtml". Applications must be filed with the Department within 30 days of the date the Department documents the nonstandard condition(s). Incomplete applications will be returned.

(2) In lieu of requesting a variance from the walkway standards, if railroad employee safety will not be impaired, the owner or lessee of a track on which service is provided to no other businesses may restrict operations over any portion of the track by posting operation restriction signs, conforming to OAR 741-330-0010(2). Signs shall be located on each side of the track, facing incoming railroad movements, to a point beyond which no railroad employee may go or move equipment. The person posting the signs shall provide written notification of the intent to restrict operations, to the Department and each railroad that provides service over the track at least two weeks in advance of installation of the operation restriction signs.

(3) In lieu of requesting a variance from the walkway standards, if neither railroad service to another rail user nor railroad employee safety will be impaired, the owner or lessee of a track on which service is provided to one or more other businesses may apply to the Department (copy to the affected railroad) for written approval to restrict operations over any portion of the track by use of operation restriction signs conforming to OAR 741-330-0010(2). Signs will be located on each side of the track facing incoming railroad movements, at a point beyond which no railroad employee may go or move equipment. Following railroad comment the Department may act upon the application as circumstances warrant. If the application is approved, the person permitted to install such signs shall provide written notification of the intent to restrict operations to the Department and each affected railroad at least two weeks in advance of installation of the operation restriction signs.

(4) Upon receipt of the foregoing notification of installation, each affected railroad shall immediately instruct its operating employees in writing, in special instruction or timetable bulletin, not to go or move equipment beyond the point at which the operation restriction signs are posted.

(5) Before an owner or lessee of a track removes an operation restriction sign, an application for a variance under section (1) of this rule, must be filed with, and approved by, the Department, unless the facility is in full compliance with the walkway rules.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0250; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0060

Surface

(1) Walkways shall have a reasonably regular surface and shall be maintained in a safe condition, clear of such vegetation, debris, standing water and other obstructions which may constitute a hazard to railroad employees working on the ground.

(2) Except as provided in section (3) of this rule, walkways located along yard tracks and tracks where switching is regularly performed two or more times weekly shall be surfaced with crushed material not to exceed American Railway Engineering and Maintenance-of-way Association (AREMA) standard No. 4; 1 1/2 inches in size, or with asphalt, concrete, planking, grating or similar material.

(3) Walkways located along switching lead tracks, switches in yards, car spotting areas, and railroad shop or repair tracks, shall be surfaced with crushed material not to exceed AREMA standard No. 5; 1 inch in size, or with asphalt, concrete, planking, grating or similar material.

(4) The Department, after investigation, upon its own motion, or upon the petition of any aggrieved person may determine that the safety of railroad employees requires the applicable standard set forth in section (2) or (3) of this rule for any walkway.

(5) No railroad, owner or lessee shall allow debris on walkways.

(6) Walkways not covered by section (2) or (3) of this rule may be surfaced with crushed ballast materials.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0300; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0070

Slope

(1) Except as provided in sections (2) and (3) of this rule, walkways shall not have a slope in excess of 1 to 8 in any direction.

(2) Excess slope is permissible where the proximity of adjacent tracks so dictates so long as the slope between tracks is constant. When frequent switching occurs, or railroad employees inspect and repair cars, terracing may be required between adjacent tracks to provide a level surface for a walkway.

(3) Excess slope is permissible at locations where a vehicle or pedestrian way intersects a standard walkway unless the Department, after investigation, upon its own motion or upon the petition of any aggrieved person determines that the safety of railroad employees requires the slope prescribed by section (1) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0305; RS 2-1998, f. & cert. ef. 8-20-98

741-320-0080

Walkway Standard No. 1: Between Yards and Switches

(1) Walkway Standard No. 1 shall be a walkway with a minimum width of at least 2 feet, the outside edge of which shall be no closer than 8 feet and no further than 22 feet from the centerline of the track. It shall be constructed and maintained so that the elevation of its surface is not below the base of the ballast section of the roadbed nor above the top of the ties and in compliance with OAR 741-320-0070(1). If required by the Department under OAR 741-320-0010(3), Walkway Standard No. 1 shall apply to all trackage, except where Walkway Standard No. 2, No. 3 or No. 4 is applicable.

(2) See **Figure 320-1** for a diagram of the minimum measurements for walkway standard No. 1.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0310; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0090

Walkway Standard No. 2: Yards, Car Spotting Areas and Regular Crew Change Points

(1) Walkway Standard No. 2 shall be a walkway constructed to a minimum width of 6 feet, as measured from the outside edge of the rail. It shall be constructed and maintained so that the elevation of its surface is approximately level with the tops of the ties, but not above top of rail. Walkway Standard No. 2 shall be located along both sides of all tracks within yards and in advance of, to include all points contiguous to yards where railroad employees normally work on the ground.

(2) In areas where railroad or industry car spotting is performed, walkways conforming to Walkway Standard No. 2 shall be constructed and maintained throughout the area where cars are actually spotted, and in advance of, to include all locations where railroad employees normally work on the ground.

(3) At regular crew change points, a walkway conforming to Walkway Standard No. 2 shall be constructed and maintained on one side of the track throughout the area where employees are getting on and off locomotives or cabooses.

(4) See **Figure 320-2** for a diagram of the minimum measurements for Walkway

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0315; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0100

Walkway Standard No. 3: Switches

(1) Walkway Standard No. 3 shall be a walkway constructed to a minimum width of 6 feet, as measured from the outside edge of the rail. It shall be constructed and maintained so that the elevation of its surface is approximately level with the top of the ties, but not above top of rail. Except as provided in section (2) of this rule, Walkway Standard No. 3 shall be located along both sides of the track for a minimum distance of 125 feet on each side of every switch stand or other trackside switch-throwing mechanism.

(2) Walkways conforming to this standard shall be continuous and maintained from the switch stand through the switch frog and along the diverging tracks to a point at least 25 feet beyond the 13 feet clearance point of the switch.

(3) An additional 3 feet of walkway width shall extend for a minimum distance of 4 feet in each direction from the switch stand or other trackside switch-throwing mechanism on the side of the track where the mechanism is located. This additional 3 feet of width shall be gradually tapered back to the 6 feet minimum width in a distance of not less than 20 feet.

(4) See **Figure 320-3** for a diagram of the minimum measurements for Walkway Standard No. 3.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 6-1983, f. & ef. 6-13-83 (Order No. 83-313); PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0320; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0110

Walkway Standard No. 4: Derails

(1) Walkway Standard No. 4 shall be a walkway constructed and maintained to conform, in width and elevation, to OAR 741-320-0100 (Standard No. 3). As measured from the derail mechanism, the walkway shall extend for 20 feet toward the switch and 10 feet away from the switch. At derails operated by a switch stand, an additional 3 feet of walkway width shall extend for a minimum distance of 4 feet in each direction from the switchstand, and only on the switchstand side of the track. This additional 3 feet of width shall be gradually tapered back to the 6 feet minimum width in a distance of not less than 20 feet in the direction toward the switch and not less than 10 feet in the direction away from the switch.

(2) Derails located within 200 feet of a switch throwing mechanism shall have a continuous Standard No. 3 walkway between the two on the same side of the track as the derail or derail switch stand.

(3) See **Figure 320-4** for a diagram of the minimum measurements for Walkway Standard No. 4.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0322; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0120

Access Walkways

(1) Walkways shall be constructed and maintained to provide access between tracks in yards wherever adjacent tracks are 20 feet or less apart, as measured from centerline to centerline. Such walkways shall be at least 2 feet in width and shall be provided at intervals as necessary to enable railroad employees to walk from one track to another to perform switching or other work about trains.

(2) Adequate access walkways shall be provided at locations where train crew members are regularly dropped off or picked up by a highway vehicle. Walkways of at least 2 feet in width shall be constructed and maintained to allow employees to safely walk between the normal stopping point of the highway vehicle and the track where the locomotive or caboose is located, or where work is to be performed.

(3) Except as provided in sections (1) and (2) of this rule, access walkways with a minimum width of 2 feet shall be constructed and maintained when and where determined necessary by the Department.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0325; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0130

Walkways on Structures

(1) A walkway on a structure shall have a minimum width of 2 feet, the outside edge of which shall be no closer than 7 feet 9 inches to the centerline of the track. It shall be constructed and maintained in such a manner that its surface is as close as possible to the top of ties. See **Figure 320-5** for a diagram of a walkway on a structure.

(2) At each end of a structure the walkway shall be gradually tapered in accordance with OAR 741-320-0070 (slope) to meet the base of the ballast section or an existing walkway.

(3) Any structure altered or rebuilt, other than for routine maintenance, shall be equipped with a walkway conforming to standards set forth in OAR 741-320-0130.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0330; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0140

Walkways in Tunnels

(1) A walkway conforming to OAR 741-320-0080 (Standard No. 1), shall be constructed and maintained in a tunnel, upon order of the Department, only after notice to the affected railroad and hearing (in case of dispute), and be located as close as is possible to the tunnel wall, with its surface as close as possible to the top of ties.

(2) At each end of a tunnel the walkway shall be gradually tapered in accordance with OAR 741-320-0070 (slope) to meet the base of the ballast section or an existing walkway.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0332; RS 2-1998, f. & cert. ef. 8-20-98

741-320-0150

Handrails

Except for walkways between tracks, each walkway on an elevated structure such as a bridge or trestle, shall be equipped with an adequate handrail at a height of 42 inches, plus or minus 3 inches, above the walkway surface. The handrail shall be constructed in such a manner that it shall not sag more than 3 inches from the height of the supporting fixture. The handrail shall be located at the outside edge of the walkway. Effective one year from the last effective date of this rule.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0335; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0160

Walkways on Curves

Except where OAR 741-320-0080 (Standard No. 1) applies, a walkway located on the inside of a curve exceeding 17 degrees shall have a minimum width of 7 feet as measured from the outside edge of rail. See OAR 741-315-0010(3).

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0340; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-320-0170

Walkways for Tracksides Warning Devices

A walkway conforming to OAR 741-320-0080 (Standard No. 1) or 741-320-0130 (Walkways on Structures) as appropriate, shall be constructed and maintained, upon order of the Department, for such distance and in each location as is necessary to facilitate inspection of a train stopped by a trackside warning device, only after notice to the affected railroad and hearing (in case of dispute).

NOTE: The Department may order the walkways prescribed in this rule only after notice to the affected railroad and hearing (in case of dispute).

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.056

Stats. Implemented: ORS 824.050 & 824.056

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0342; RS 2-1998, f. & cert. ef. 8-20-98

DIVISION 325

FORMS

741-325-0010

Return of Inspection Forms Required

Each railroad, industry or person subject to OAR 741-300-0010, 741-320-0010 and 741-335-0010 shall return inspection report forms following each inspection by Department's staff within 10 days following the requested compliance date shown on the report.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: none

Hist.: PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0351; RS 2-1998, f. & cert. ef. 8-20-98

DIVISION 330

SIGNS

741-330-0010

Impairment/Restriction/Stop Signs

(1) Signs to warn railroad employees of clearance less than those prescribed in these rules shall be at least 16 inches vertically by 20 inches horizontally and located on the same side of the track as the impairment for each direction of approach. Each sign shall bear the words "IMPAIRED SIDE, OVERHEAD OR SIDE AND OVERHEAD CLEARANCE," as appropriate, in black letters, not less than 3 inches in height, against a white reflectorized background. In addition, the letters "PUC" or "ODOT" followed either by the word "RULE" or "ORDER" as appropriate and the number of the applicable rule or order in black letters and numerals not less than 1 inch high. Unless authorized by the Department, these signs shall be illuminated during hours of darkness.

(2) Operation restriction signs shall be at least 16 inches vertically by 20 inches horizontally and shall bear the word "STOP" in black letters not less than 3 inches high and the words "RAILROAD CREWS NOT TO MOVE EQUIPMENT BEYOND THIS POINT" (or equivalent language), and other required wording in black letters not less than 1 1/2 inches high followed by the letters "ODOT" or "PUC" and the word "RULE" or "ORDER" as appropriate, and the number of the applicable rule or order in black letters 1 inch high on a white reflectorized background. These signs shall be illuminated during hours of darkness.

(3) Stop signs shall be at least 16 inches vertically by 2 feet horizontally and shall bear the word "STOP" in white letters at least 8 inches high on a red reflectorized background. These signs shall be illuminated during hours of darkness.

(4) Notes:

(a) See **Figure 330-1** for a diagram of the impaired clearance signs.

(b) See **Figure 330-2** for a diagram of the operational restriction sign.

(c) See **Figure 330-3** for a diagram of the stop sign.

(d) In cases where clearance impairments do not extend more than 2 feet above top of rail, the Department may order "IMPAIRED WALKWAY" signs as described in OAR 741-330-0020.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 6-1983, f. & ef. 6-13-83, Order No. 83-313; PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0364; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-330-0020

Impaired Walkway/Nonstandard Walkway Warning Signs

(1) Signs to warn railroad employees of walkways different than those prescribed in these rules shall be at least 16 inches vertically by 20 inches horizontally and located on the same side of the track as the impairment or nonstandard condition for each direction of approach. Each sign shall bear the words "IMPAIRED WALKWAY" or "NONSTANDARD WALKWAY", as appropriate in black letters, not less than 3 inches high, against a white reflectorized background. In addition, the letters "ODOT" or "PUC" followed either by the word "RULE" or "ORDER," as appropriate, and the number of the applicable rule or order in black letters and numerals not less than 1 inch high. Unless authorized by the Department, these signs shall be illuminated during hours of darkness.

(2) See **Figure 330-4** for a diagram of the impaired walkway, and nonstandard walkway, signs.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0365; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-330-0030

Location of Signs

(1) The bottom of a sign mounted on an existing structure, other than a sign post, shall be no less than 4 feet 6 inches, and no more than 8 feet above top of rail to which the sign applies. The bottom of a free standing sign, installed after (date of this order), shall not be less than 7 feet, and no more than 9 feet, above the top of ground.

(2) Signs shall be located at least 8 feet 6 inches and no farther than 15 feet from centerline of track.

(3) Signs, other than a standard operation restriction sign, shall be located in advance of the impairment, but no farther than 50 feet.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81, Order No. 81-900; PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; PUC 26-1985, f. & ef. 12-19-85, Order No. 85-1196; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0366; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-330-0040

Size and Design of Signs

Signs which are not in compliance with OAR 741-330-0010 and 741-330-0020, shall be replaced with signs of the required size and design.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 824.050 & 824.052

Hist.: PUC 4-1983, f. & ef. 5-3-83, Order No. 83-242; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0367; RS 2-1998, f. & cert. ef. 8-20-98

DIVISION 335

**RAILROAD CABOOSE AND LOCOMOTIVE
SANITATION FACILITY AND WATER STANDARDS**

741-335-0010

Applicability of Rules

OAR 741-335-0020 through 741-335-0200 apply to each railroad operating locomotives and/or cabooses in this state.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; Order No. 81-243, f. & ef. 4-8-81; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-05007; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-335-0020

Definitions

As used in OAR 741-335-0010 through 741-335-0200, unless the context requires otherwise:

(1) "Caboose" is any car or coach used on a railroad train to carry a train crew.

(2) "Locomotive" is any railroad vehicle used to propel a railroad train.

(3) "Safe Drinking Water" means water which meets the quality standards in OAR 333-061-0020.

(4) "Sanitary" means free from agents injurious to health.

(5) "Seat Riser" means that structural support extending from the floor to a toilet seat.

(6) "Terminal" means a system of tracks, the boundaries of which are set by a railroad, for the coupling and uncoupling of cars and/or where railroad employees report for or are relieved from duty.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; Order No. 81-243, f. & ef. 4-8-81; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-05005; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-335-0030

Application for Variances

Applications for variances from OAR 741-335-0010 through 741-335-0180 shall contain a photo and/or drawing of the facility for which the variance is requested and shall describe the measures to be followed in lieu of the applicable rule. Each application shall be accompanied by at least five copies.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; Order No. 81-243, f. &

ef. 4-8-81; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0520;

RS 2-1998, f. & cert. ef. 8-20-98

741-335-0040

Exempt Equipment

Toilets are not required on cabooses used exclusively in yards

or in transfer service where railroad provided and maintained sta-

tionary toilet facilities are available to railroad employees and

notice of such facilities is provided to employees.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; Order No. 81-243, f. &

ef. 4-8-81; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0525;

RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-335-0050

Caboose Sanitation Facilities

Each caboose which employees are required to occupy shall have a toilet in a toilet room. The enclosure of every toilet room shall be of solid construction from floor to ceiling with interior illumination, and have a solid door or a door with nontransparent windows. Doors to toilet rooms shall be latchable from the inside. The walls and ceilings in every toilet room shall be of suitable nonabsorbent material and have a light-colored water repellent finish at least equal to that of a good quality paint or varnish. The finish of the floor of every toilet room and side walls up to a height not less than 6 inches shall be smooth, cleanable and of a nonabsorbent material.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0530; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-335-0070

Toilet Construction

All toilets on cabooses shall be constructed with a flush bowl so as to be easily cleaned and maintained in a sanitary condition, and shall be manufactured of a smooth finished material, impervious to moisture, with a hinged toilet seat and lid with a moisture-resistant finish. All toilets shall be maintained in a safe condition and properly secured.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0535; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-335-0080

Toilet Room Ventilation

Toilet rooms on cabooses shall be ventilated. If not practical to ventilate by windows, ventilation shall be provided by some other means.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0537; RS 2-1998, f. & cert. ef. 8-20-98; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-335-0090

Chemical Container Construction

No chemical container shall be installed in a toilet on cabooses unless it will prevent the waste treatment solution therein from splashing upon any portion of the body of the person using the facility during any movement likely to occur in usual train operation, including slack action.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0539; RS 2-1998, f. & cert. ef. 8-20-98; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-335-0100

Incinerator Toilets

(1) Toilets that function by intense heat shall be installed and maintained to consume waste with the least amount of odor possible.

(2) Incinerator toilets shall be vented to the outside in such a manner that the crew working area is free of objectionable odor.

(3) Clear and concise instructions for use of incinerator toilets shall be provided.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0543; RS 2-1998, f. & cert. ef. 8-20-98

741-335-0110

General Sanitary Maintenance of Toilets and Toilet Rooms

(1) Toilets and toilet rooms in all cabooses shall be maintained in a sanitary condition.

(2) The containers of chemical-type toilets shall be charged with sufficient treatment solution of adequate strength to function properly, and the contents shall be agitated as necessary when in service.

(3) The waste passages connecting the seat riser with the containers of chemical-type toilets shall be cleaned as necessary to maintain them in a sanitary condition.

(4) When the holding tanks of chemical-type toilets are more than two-thirds full, before a tour of duty, the contents shall be removed from cabooses and properly discharged in a sanitary manner.

(5) Self-contained sewage treatment facilities shall be maintained in proper working order.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0545; RS 2-1998, f. & cert. ef. 8-20-98; RD 1-2006, f. & cert. ef. 8-28-06

741-335-0120

Toilet Room Supplies

An adequate supply of toilet paper with a convenient holder shall be supplied for each toilet. Crew packs adequately supplied with toilet paper are acceptable.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0547; RS 2-1998, f. & cert. ef. 8-20-98

741-335-0130

Drinking Water

(1) Sanitary drinking water facilities shall be provided and maintained on locomotives and cabooses in service so as to provide an adequate supply of safe drinking water.

(2) When ice is used for water cooling purposes, the containers shall be so arranged that the drinking water will not come in contact with the ice.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0550; RS 2-1998, f. & cert. ef. 8-20-98

741-335-0140

Drinking Water Containers

(1) Drinking water shall be supplied in suitable sanitary containers conveniently located for the use of the employees, but shall not be located in separately enclosed toilet rooms.

(2) Each reusable drinking water container shall be constructed so as to be easily cleaned and disinfected and shall be made of impervious and noncorrodible materials.

(3) Either single service drinking cups or drinking fountains with sanitary angle heads shall be provided for the use of employees.

(4) With the exception of individual disposable containers, no drinking water containers from which water must be dipped or poured shall be used.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; Order No. 81-243, f. & ef. 4-8-81; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0552; RS 2-1998, f. & cert. ef. 8-20-98

741-335-0160

Hand Cleaning Facilities

Facilities for cleaning of hands shall be provided on cabooses and locomotives in service at a location where the use thereof will not result in the contamination of the drinking water dispensing system. An adequate supply of hand soap or other hand cleaning agents shall be provided in appropriate dispensers or crew packs and shall be capable of removing oil-based substances. Individual disposable or launderable towels and waste receptacles for used towels shall be provided.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-05607; RS 2-1998, f. & cert. ef. 8-20-98

741-335-0170

Placing Cabooses and Locomotives in Service

Locomotives and cabooses shall not be placed in service until all sanitation, water and hand cleaning standards have been met. A locomotive or caboose shall be considered in service once it is removed from the service track or is occupied by a member of the train crew.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0570; RS 2-1998, f. & cert. ef. 8-20-98; RS 2-1998, f. & cert. ef. 8-20-98

741-335-0180

Caboose Defect and Repair Register

(1) An equipment defect and repair register shall be furnished and maintained on each caboose. The register shall consist of a card, paper or book with spaces to record the date and train upon which a defect occurs, the defect and the name of the person reporting the defect. Each railroad shall require inspection of this register at all locations where maintenance can be performed, listing on the register the date and place the defect is corrected and initials and last name of the person making the repair. The railroads shall provide reasonable regulations for use of the register, including a provision for maintaining in each caboose all entries reporting defects within the previous 90 day period.

(2) The equipment defect register may be used to report defects in equipment required by ORS Chapter 824 (fire extinguishers and rear-end markers) and sanitation regulations contained in OAR 741-335-0010 through 741-335-0160.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.068

Stats. Implemented: ORS 824.068

Hist.: PUC 2-1981, f. & ef. 4-8-81, Order No. 81-184; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-044-0580; RS 2-1998, f. & cert. ef. 8-20-98

741-335-0200

First Aid Kits

(1) Each locomotive and caboose shall carry a first aid kit as required under ORS 824.060 containing the following minimum first aid supplies:

- (a) Gauze pads (small);
- (b) Gauze pads (large);
- (c) Adhesive bandages;
- (d) Gauze bandage;
- (e) Triangle bandage;
- (f) Pair scissors;
- (g) Soap solution or sealed moistened towelettes; and
- (h) Pair of latex gloves.

(2) First aid kits required by another state will be acceptable if the contents are reasonably equivalent to those required by this rule.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 824.060

Hist.: RS 2-1998, f. & cert. ef. 8-20-98

DIVISION 400

STANDARD FOR THE OPERATION BY CLASS I RAILROADS OF FREIGHT TRAINS WITHOUT AN OCCUPIED CABOOSE AS THE REAR CAR

741-400-0010

Standards for Cabooseless Train Operations

The Public Utility Commission adopts the following orders as standards for the operation by Class I railroads of freight trains without an occupied caboose as the rear cars:

Railroad	Case Number	Order Number
Southern Pacific	RC-47	84-904 86-787
Union Pacific	RC-58	86-1119

Burlington Northern RC-59 87-039
 RC-78 85-1214
 86-764

Stat. Auth.: ORS 183, 756 & 761
 Stats. Implemented: ORS 761.612
 Hist.: PUC 12-1987(Temp), f. & ef. 10-8-87, Order No. 87-1015; PUC 13-1988, f. & cert. ef. 6-20-88, Order No. 88-636; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-045-0015

DIVISION 510

OREGON RAILROAD HAZARDOUS MATERIALS TRANSPORTATION RULES

741-510-0010

General Provisions and Definitions

(1) OAR 741-510-0010 through 741-510-0050 and 741-520-0010 through 741-520-0020, which shall be known as the Oregon Railroad Hazardous Materials Transportation Rules, are adopted under authority of ORS 824.080 through 824.092.

(2) "Emergency Response Agency" means county or local jurisdictions, and tribal, state and federal agencies, with a responsibility to conduct first response or support emergency operations and clean-up.

(3) "Hazard Class" means the category of hazard assigned to a hazardous material under the definitional criteria in 49 CFR Part 173 and as listed in the hazardous material table in 49 CFR 172.101, in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015).

(4) "Hazardous Material" means any hazardous material or hazardous substance defined in Title 49 CFR 171.8, as adopted in OAR 741-510-0015 pursuant to ORS 824.086(1) in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015).

(5) "Incident" means any situation where a release of a Hazardous Material occurs, involving fire, breakage, spillage, or derailment.

(6) "Line Segment" means a length of rail line over which a Hazardous Material is transported between two or more stations within the state that are identified on a current railroad timetable. A Line Segment will terminate at the nearest station where an alternate route exists.

(7) "Rail Division" means the Rail and Public Transit Division of the Oregon Department of Transportation.

(8) "Railroad Emergency Response Telephone Number" means a telephone number that is answered at all times by a person who is able to provide detailed information regarding specific Incidents involving Hazardous Materials on the railroad, or has immediate access to a person who possesses such knowledge and information. A telephone number that requires a call back (such as an answering service, answering machine, or beeper device) does not meet the requirements of this definition.

(9) "Timetable" means a publication containing instructions relating to the movement of trains or equipment and other essential information for purposes of railroad operations.

(10) "UN or NA Identification Number" means the 4-digit number assigned to the proper shipping name of a Hazardous Material as referenced in 49 CFR 172.101. "UN" numbers are assigned by the United Nations and are preceded by "UN". "NA" (North American) numbers are identical to UN numbers, except that some substances without a UN number may have an NA number. These identification numbers provide a common reference for hazard information and general emergency response procedures for Hazardous Materials in transportation.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
 Stats. Implemented: ORS 824.080 - 824.092
 Hist.: PUC 1-1979, f. & ef. 3-5-79, Order No. 79-145; PUC 5-1984, f. & ef. 3-6-84, Order No. 84-164; PUC 6-1985, f. & ef. 6-5-85, Order No. 85-496; PUC 20-1986, f. & ef. 12-30-86, Order No. 86-1330; PUC 4-1989, f. & cert. ef. 4-11-89, Order No. 89-444; PUC 1-1991, f. & cert. ef. 1-11-91, Order No. 91-20; PUC 6-1992, f. & cert. ef. 2-26-92, Order No. 92-292; PUC 10-1993, f. & cert. ef. 6-3-93, Order No. 93-693 & 93-761; PUC 6-1994, f. & cert. ef. 3-28-94, Order No. 94-525; PUC 6-1995, f. & cert. ef. 7-13-95, Order No. 95-562; RS 2-

1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0500; RS 3-1996, f. 3-20-96, cert. ef. 4-1-96; RS 1-1997, f. & cert. ef. 6-27-97; RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

741-510-0015

Adoption of Federal Regulations

The Department of Transportation adopts the rules of the United States Department of Transportation in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015) in Title 49, Code of Federal Regulations, Parts 107 through 180, Hazardous Materials Regulations, insofar as those rules apply to railroads and railroad shippers.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
 Stats. Implemented: ORS 824.080 - 824.092
 Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

741-510-0020

Railroad Reporting Information

There are different entities involved in the transportation of Hazardous Materials by rail and response to any associated Incidents. Information sharing ensures emergency responders have information to guide preparedness efforts and effective response actions.

(1) Each railroad transporting Hazardous Materials in this state shall provide by electronic mail to the Rail Division, the following information for each rail line it operates in the state:

(a) Current railroad Timetable;

(b) The name, address, and telephone number of the railroad's person in charge of education and training related to Hazardous Material transportation;

(c) The Railroad Emergency Response Telephone Number for obtaining information about train contents, including the type, quantity and placement of Hazardous Material cars within the train.

(2) Each railroad shall provide updated information required in 741-510-0020(a) through (c) to the Rail Division no later than the last day of the month following the month the change was made.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
 Stats. Implemented: ORS 824.080 - 824.092
 Hist.: PUC 1-1979, f. & ef. 3-5-79, Order No. 79-145; PUC 5-1984, f. & ef. 3-6-84, Order No. 84-164; PUC 6-1985, f. & ef. 6-5-85, Order No. 85-496; PUC 1-1991, f. & cert. ef. 1-11-91, Order No. 91-20; PUC 6-1992, f. & cert. ef. 2-26-92, Order No. 92-292; PUC 6-1995, f. & cert. ef. 7-13-95, Order No. 95-562; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0510; RS 1-1997, f. & cert. ef. 6-27-97; RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

741-510-0025

Quarterly Reporting of Hazardous Material Transportation

(1) Each railroad transporting Hazardous Materials, if any part of such transportation takes place within this state, shall provide a report via electronic mail to the Rail Division, for each quarter in which Hazardous Materials are transported. The quarterly report shall be made by the reporting railroad no later than the last day of the month following the quarter in which transportation of the Hazardous Material shipment ends, or the Hazardous Material shipment leaves the state.

(2) The quarterly report shall segregate the reportable data by month. The quarterly report shall include:

(a) The name, UN or NA Identification Number and Hazard Class of the Hazardous Material transported;

(b) The number of loaded rail cars and residue rail cars used to transport the Hazardous Material, including any intermodal trailers, containers, and tank containers required to be marked with the UN or NA Identification Number of the Hazardous Material;

(c) The railroad Line Segments in the state over which the Hazardous Material was transported.

(3) The Rail Division shall prepare an annual report based on the quarterly reports submitted by each railroad.

(4) The Rail Division shall make the information provided in the quarterly and annual reports available to Emergency Response Agencies.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086
 Stats. Implemented: ORS 824.080 - 824.092

741-510-0027**Public Disclosure of Reporting Hazardous Material Transportation**

(1) Pursuant to ORS 824.082 and 824.086, the Rail Division shall make accessible to the general public, information reported quarterly, required by section (1) through (4) of OAR 741-510-0025. Disclosure of the reports will be subject to public records disclosure laws and will require a public records request.

(2) ORS 192.501 and 192.502 provide that certain records (i.e., trade secrets) are exempt from disclosure under 192.410 to 192.050 unless the public interest requires disclosure in a particular instance. Persons required to provide information under these rules may request that the Rail Division treat some or all of their information as exempt from public disclosure by:

(a) Making the claim in writing at the time the required information is provided to the Rail Division, and;

(b) Providing any written documentation or analysis that supports the claim of exemption from public disclosure at the time the required information is provided to the Rail Division.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086

Stats. Implemented: ORS 824.080 - 824.092

Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

741-510-0035**Immediate Access to Train Information for Emergency Response Agencies**

Each railroad transporting Hazardous Materials, if any part of such transportation takes place within this state, shall ensure that Emergency Response Agencies responding to an Incident on the transporting railroad's lines have immediate telephonic and/or electronic access to information about train contents, including the type, quantity and placement of Hazardous Material cars within the train.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086

Stats. Implemented: ORS 824.080 - 824.092

Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

741-510-0045**Notice of Incidents**

Emergency Response Agencies require immediate notification of Incidents to mobilize responders and equipment and initiate alerts to the impacted public to protect lives, property and the environment, and ensure timely and effective response.

(1) In the event of an Incident that in the judgment of the railroad requires fire, police, or medical response, the railroad shall immediately notify 9-1-1.

(2) Notwithstanding any other requirement of Oregon law, each railroad shall notify the Oregon Emergency Response System (OERS) immediately by telephone or similar means of communication of any Incident. Notification to OERS is not a substitute for calling 9-1-1 for an Incident that requires fire, police, or medical response.

(3) Notifications required in (1) and (2) of this section shall be considered immediate if made as soon as possible following the Incident.

(4) The notifications required of an Incident to OERS will at a minimum, include:

(a) Name and phone number of the person making the notification;

(b) Name of the operating railroad reporting the Incident;

(c) Name and phone number of the railroad contact person who is able to provide updated Incident information;

(d) Date and time of the Incident;

(e) Location of the Incident by railroad milepost and nearest city or town;

(f) Type of Incident and nature of Hazardous Material involvement;

(g) Estimated number of Hazardous Material rail cars involved.

(5) Upon request, railroads shall provide the following information to Emergency Response Agencies through the Railroad Emergency Response Telephone Number:

- (a) Location of the Incident by latitude/longitude;
- (b) Whether a continuing danger to life exists at the scene;
- (c) Actions taken, such as containment, shelter-in-place, or evacuation;
- (d) The extent of any known injuries;
- (e) Hazard Class, proper shipping name, and the quantity of Hazardous Materials involved and released;
- (f) The car reporting marks for any rail car involved in the release or suspected release of a Hazardous Material;
- (6) OERS will notify appropriate state agencies following their adopted protocols.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086

Stats. Implemented: ORS 824.080 - 824.092

Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

741-510-0050

Civil Penalties

- (1) Pursuant to ORS 824.990(1) and (2),
- (a) Any railroad that fails to submit the information required by OAR 741-510-0020 shall incur a civil penalty of \$1000 for each day of non-compliance.
- (b) Any railroad that fails to make the quarterly notification required by OAR 741-510-0025 shall incur a civil penalty of \$1000 for each day of non-compliance.
- (c) Any railroad that fails to provide Emergency Response Agencies with immediate access to Hazardous Material information as required by OAR 741-510-0035 shall incur a civil penalty of \$1000 for each incident.
- (d) Any railroad that fails to provide the notice of a reportable Incident to Oregon Emergency Response System (OERS) required in OAR 741-510-0045(2) shall incur a civil penalty of \$1000 for each unreported incident.
- (2) The Oregon Department of Transportation may reduce any penalty provided for in this section on such terms as the department considers proper if the defendant admits the violations alleged in the notice and makes timely request to the department for reduction of the penalty.
- (3) Civil penalties imposed under this section shall be imposed in the manner provided in ORS 183.745.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061, 824.086

Stats. Implemented: ORS 824.080 - 824.092

Hist.: RD 1-2015, f. & cert. ef. 9-3-15; RD 2-2015, f. & cert. ef. 9-14-15

DIVISION 520

HAZARDOUS WASTE

741-520-0020

Discharge Clean Up

A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment. ORS 824.088 requires a railroad to notify the Director of Oregon Emergency Management of the Department of State Police in connection with an incident that occurs during the course of transporting hazardous materials. Hazardous wastes are a form of hazardous material, so all transporters must observe the reporting requirement in connection with incidents involving hazardous wastes. See also OAR chapter 340, division 108.

NOTE: ORS 824.088 requires a railroad to notify the Administrator of the Emergency Management Division of the Department of Administrative Services in connection with an incident that occurs during the course of transporting hazardous materials. Hazardous wastes are a form of hazardous material, so all transporters must observe the reporting requirement in connection with incidents involving hazardous wastes. See also OAR chapter 340, division 108.

Stat. Auth.: ORS 823.011 & 824.086

Stats. Implemented: ORS 824.090

Hist.: PUC 8-1984, f. & ef. 4-12-84, Order No. 84-272; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0930; RS 1-1997, f. & cert. ef. 6-27-97

DIVISION 600

ACCIDENT NOTICES AND REPORTS

741-600-0010

Definitions

As used in rules 741-600-0020 to 741-600-0040:

- (1) "Serious Injury to Persons" means:
 - (a) Injury to a railroad employee sufficient to incapacitate him from performing all of the duties customarily included in the assignment of the employee at the time of injury for more than 24 hours in the aggregate during the ten days (240 hours) immediately following the accident; or
 - (b) Injury to a person other than an employee, if the injury is sufficient to incapacitate the injured person from following his customary vocation or mode of life for more than 24 hours in the aggregate during the ten days (240 hours) immediately following the accident.
- (2) "Loss of Human Life" means immediate death or death within 24 hours from the time the accident occurred.
- (3) "Serious Damage to Property" means damage to property amounting to more than \$4,500, including the expense of clearing the wreckage and damage to or loss of freight or baggage, animals, or property of noncarriers on or adjacent to the railroad right-of-way.
- (4) "Non-Serious Accident" means any accident except those accidents defined in sections (1) through (3) of this rule.
- (5) "Operation of a Railroad" means:
 - (a) The operation of trains, locomotives or cars and the facilities incidental to their operation, such as tracks, railway stations, depots, freight houses, warehouses, wharfs, and ferries used as an adjunct of train services, etc., when such operation is performed by or under the supervision of the railroad;
 - (b) The maintenance of equipment, roadway, track, structures, or other parts of railway plant, when such maintenance is performed under the supervision of the railroad. Any "serious damage" as defined in section (3) of this rule, to protective devices must be reported to the Department within seven days from such damage;
 - (c) The construction of additions, betterments, or new lines when performed under the supervision of the railroad by forces engaged in the construction, operation or maintenance of existing lines.

Stat. Auth.: ORS 823 & 824

Stats. Implemented: ORS 823.027

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-047-0001

741-600-0020

Accidents Requiring Notice and Report

The notice required herein shall be given to the Department from the office of an official designated by the railroad. Each railroad shall inform the Department in writing of the name, address and telephone number of the official designated. Such notice shall be provided between January 1 and January 15 of each year, except that additional written notice shall be provided in the event of any change in designation of official or procedure to be followed:

- (1) Except as otherwise ordered, the Department shall be notified within 24 hours (exclusive of Saturdays, Sundays and holidays), after occurrence of:
 - (a) All accidents occurring at public and private grade crossings or between such crossings, in which a collision occurs between the person or vehicle of a user of a roadway and railroad equipment;
 - (b) All derailments or other accidents involving locomotives, cars and trains resulting in loss of human life or serious injury to person or serious damage to property. Any damage to protective devices must be reported to the Department within seven days from such damage;
 - (c) All collisions of locomotives, cars and trains resulting in loss of human life or serious injury to person or serious damage to property;

(d) All bridge failures resulting in loss of human life or serious injury to person or serious damage to property;

(e) Any other accident arising from or connected with the operation of a railroad, which accident is attended by loss of human life or serious injury to person or serious damage to property.

(2) Notice shall be given by telegraph, telephone or in person, and shall include:

(a) Date of accident;

(b) Time;

(c) Name of line and railroad milepost expressed to the nearest tenth;

(d) Name of city;

(e) ODOT or OPUC crossing number if applicable;

(f) Kind of accident;

(g) Equipment involved; and

(h) Number of persons killed or seriously injured.

(3) In addition to the notice required above, all such accidents shall be reported in writing to the Department by the proper official of such railroad on a form prescribed by the Department or by the United States Department of Transportation. The report shall be made immediately after the circumstances attending the accident have been ascertained, and not later than 30 days following the month in which the accident occurred.

Stat. Auth.: ORS 823 & 824

Stats. Implemented: ORS 823.027

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-047-0005

741-600-0030

Additional Reports

(1) All police agencies investigating an incident involving railroad equipment and a person or motor vehicle at a public grade crossing shall submit a copy of State of Oregon Vehicle Accident Report-Police (Form 46) to the Department of Transportation, within ten days of occurrence or as soon as available thereafter, at no expense to the Department.

NOTE: The copy of Form 46 required by section (1) of this rule is in addition to the copy to be sent to Driver and Motor Vehicle Services Division (DMV) under ORS 810.460.

(2) Oregon Department of Transportation, DMV shall, furnish the Department a copy of the Traffic Accident and Insurance Report (Form 735-32) for all reported accidents involving railroad equipment and motor vehicles at a public grade crossing. This report shall be furnished within ten days of receipt by the DMV, at no expense to the Rail Fund.

(3) In the event no accidents have occurred at or between any public or private crossing on a railroad during a month, then that railroad shall submit a report so stating to the Department. The report shall be made not later than 30 days after expiration of the month during which no accidents occurred.

Stat. Auth.: ORS 823 & 824

Stats. Implemented: ORS 823.027

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-047-0011

741-600-0040

Joint Operations

(1) for the purpose of accident classification, the term “joint operations” is intended to cover operations on terminal or other tracks used jointly or in common by two or more reporting carriers,

or where the equipment of one carrier moves as its own train over the track of another carrier.

(2) Locomotives, with or without crews, if loaned or leased by one carrier to another, are not thereby made subject to the rules relative to "joint operations."

(3) Trains or locomotives of a non-reporting carrier which may become involved in reportable accidents on the line of a reporting carrier do not fall under the rules pertaining to "joint operations"; such accident, however, should be included in the report of the reporting carrier.

(4) If a reportable accident occurs on a private siding or track of like character, it shall be reported by the carrier having possession of the locomotive concerned, or employing the persons involved but not as a joint operation accident.

(5) Accidents occurring on tracks used by two or more reporting carriers should be severally reported by the carrier or carriers whose equipment or employees are involved and the carrier whose superintendent is in immediate charge of the track on which the accident occurs. Each carrier concerned in such an accident should report the damage to its equipment and other items of expense as provided in the report blank and state (estimating, if unknown) the amount of damage sustained by the other carriers involved, the names of which should be respectively indicated before the items of damage.

(6) If a reportable accident, though occurring on jointly used track, involves only the equipment and employees of the carrier whose superintendent is in immediate charge of such track, the accident need be reported only by the carrier concerned.

(7) Where two or more reporting carriers' trains are involved, each carrier should report casualties to its passengers, employees, and other persons on its train. Casualties to classes of persons not here mentioned should be appropriately reported by the carrier concerned.

(8) Accidents occurring on terminal or other tracks used jointly or in common by two or more reporting carriers involving employees on duty should be reported by the several carriers concerned. Casualties to other persons should be reported by the carrier whose equipment is involved.

Stat. Auth.: ORS 823 & 824

Stats. Implemented: ORS 823.027

Hist.: PUC 3-1983, f. & ef. 3-16-83, Order No. 83-143; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-047-0015

741-600-0050

Overhead/Side Obstructions

Railroads shall report in writing all accidents involving contact with overhead obstructions which are less than the minimum applicable standard or obstructions at side of track which are less than the minimum applicable standard. The written report shall:

(1) List the vertical or horizontal clearance from the center of the track;

(2) Mention whether warning devices are present; and

(3) Contain a brief description of the weather conditions existing at the time of the accident.

Stat. Auth.: ORS 823 & 824

Stats. Implemented: ORS 823.027

Hist.: PUC 3-1985, f. & ef. 4-8-85, Order No. 85-291; RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-047-0045

DIVISION 700

UNIFORM SYSTEM OF ACCOUNTS FOR RAILROADS

741-700-0010

Uniform System of Accounts for Railroads

(1) The Uniform System of Accounts for Railroads adopted by the Surface Transportation Board effective January 1, 1985, for Class I carriers and January 1, 1979, for all other carriers shall be utilized by all railroads except Express Companies and Pullman Car Companies, operating within the State of Oregon.

(2) The Uniform System of Accounts for Railroads shall be followed by all railroads in rendering Annual Reports to the Oregon Department of Transportation.

(3) Every railroad shall in addition keep accurate books, accounts and records showing as follows:

(a) Movements of traffic within Oregon (excluding traffic neither originating nor terminating within Oregon) detailed by commodity group and class of traffic as defined and separated by the Quarterly Commodity Statistics (QCS) filed with the Surface Transportation Board (carloads, tons and revenue) with the Department:

(A) Revenue freight originating and terminating within Oregon;

(B) Other revenue freight originating within Oregon;

(C) Other revenue freight terminating within Oregon;

(D) Class I carriers alternatively may report on Schedule SC-941 movements of traffic within Oregon by commodity group and commodity class (carloads and tons):

(i) Revenue freight originating on respondent's road within Oregon;

(ii) All other revenue freight carried within Oregon;

(iii) Total revenue freight terminating on respondent's road within Oregon;

(iv) Total revenue freight carried within Oregon.

NOTE: Carriers may omit detailed statistics on movements in paragraphs (ii) and (iv) of this subsection when such data is not available; provided, however, that this waiver shall not affect the requirement that all interstate and intrastate revenues be reported to the Department for the purpose of determining the Department's annual fee as provided in ORS 824.010.

(E) Other than Class I carriers may alternatively report the summary carload information of revenue line haul movements: interline received traffic; interline forwarded traffic; and local traffic.

(b) Railway operating revenue earned within Oregon classified in accordance with the Surface Transportation Board Uniform System of Accounts:

(A) All intrastate traffic;

(B) All interstate traffic (allocated on a mileage basis);

(C) Total revenues earned within Oregon. (Sum of paragraphs

(A) and (B) of this subsection).

(c) Statistics of rail line operations within Oregon. (Class I and subsidiary railroads only):

(A) Average miles of road operated;

(B) Train miles:

(i) Freight;

(ii) Passenger.

(C) Locomotive unit miles:

(i) Freight road service;

(ii) Passenger road service;

(iii) Freight train switching;

(iv) Passenger train switching;

(v) Freight yard switching.

(D) Car miles:

(i) Loaded freight cars;

(ii) Empty freight cars;

(iii) Caboose.

(E) Gross ton miles from operations within Oregon:

(i) Ton miles of freight locomotives;

(ii) Ton miles of passenger locomotives;

(iii) Ton miles of freight train cars, contents and cabooses;

(iv) Ton miles — Passenger train cars and contents.

(F) Train hours in road service:

(i) Freight train;

(ii) Passenger train.

(d) Information required in paragraphs (c)(B) through (c)(F) of this section may be supplied based on system experience adjusted to reflect Oregon operations;

(e) Revenue and non-revenue freight traffic from operations within Oregon (net tons and net ton miles);

(f) (Class I and Subsidiary Railroads only). Freight train car system utilization factors by car types as defined in the Annual