

DIVISION 50

RAILROADS: RAIL RATES, PROCEDURES FOR FILING, PROCEEDINGS

741-050-0010 Adoption of Federal Standards and Procedures for Regulations of Intrastate Railroad Rates

Procedures Governing the Filing and Timing Requirements of Rail Rates; Definition of Rates

741-050-0020 Applicability
741-050-0030 Definition of Rates
741-050-0040 Tariff Form and Content
741-050-0050 Tariff Filings — Copies Required
741-050-0060 Request for Abbreviated Notice
741-050-0070 Period of Notice
741-050-0080 Tariff Defects

Rules of Procedures for Rail Rate Proceedings

741-050-0090 Applications to Establish Rates Based on Released or Declared Valuation
741-050-0100 Formal Proceedings
741-050-0110 Timing Requirements for Petitions
741-050-0120 Contents of Answer by Respondent Railroad
741-050-0130 Timing Requirements for Answers
741-050-0140 Late Filing of Petitions and Answers
741-050-0150 Docketing and Notice of Proceedings
741-050-0160 Market Dominance Determinations
741-050-0170 Justification to Investigate a Rate Increase
741-050-0180 Burden of Proof
741-050-0190 Standards for Determining Reasonableness
741-050-0200 Discrimination
741-050-0210 Waivers and Refunds

Special Rules for Contract Rate Filings

741-050-0220 Definition of the Term “Contract”
741-050-0230 Filing of Contracts

Exemption Authority

741-050-0240 Automatic Application of Interstate Commerce Commission Exemptions
741-050-0250 Proceedings to Exempt Other Intrastate Traffic

Joint Line Surcharges and Cancellations

741-050-0260 Required Notice of Joint Rate Surcharges and Cancellations
741-050-0270 Procedures for Determining Variable Cost for Movement Subject to Joint Rate Surcharge or Cancellation

DIVISION 55

AGENCY PROCEEDINGS

741-055-0010 Petition to Abandon Agency or Withdraw Agent

DIVISION 60

STATE SAFETY OVERSIGHT OF RAIL FIXED GUIDEWAY SYSTEMS

741-060-0010 General Provisions
741-060-0020 Definitions
741-060-0030 System Safety Program Plan Requirements
741-060-0040 Monitoring the System Safety Program Plan
741-060-0050 System Security Program Plan Requirements
741-060-0060 Monitoring the System Security Program Plan

741-060-0070 Requirements for Internal Safety Audits
741-060-0080 Requirements for Reporting Accidents, Security Breaches and Unacceptable Hazardous Conditions
741-060-0090 Requirements for Investigating Accidents, Security Breaches and Unacceptable Hazardous Conditions

DIVISION 100

RAILROAD-HIGHWAY CROSSINGS — GENERAL

741-100-0010 Measurements
741-100-0020 Definitions

DIVISION 105

ASSIGNMENT OF IDENTIFICATION NUMBERS TO CROSSINGS

741-105-0010 Crossings to be Numbered
741-105-0020 Method of Assigning Numbers
741-105-0030 Display of Numbers at Crossings

DIVISION 110

PROTECTIVE DEVICES AT CROSSINGS

741-110-0010 Purpose and Scope of Rules
741-110-0020 Application of Rules to Existing Protective Devices
741-110-0030 Standard Protective Devices
741-110-0040 Location of Protective Devices
741-110-0050 Authority Required for Installation, Removal or Change of Protective Devices/Exceptions
741-110-0060 Required Installation of Specified Protective Devices
741-110-0070 Operation of Active Devices
741-110-0080 Observance of Railroad Stop Signs
741-110-0090 Maintenance and Replacement of Protective Devices

DIVISION 115

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

741-115-0010 Definitions
741-115-0020 Procedure for Allocation of Monies
741-115-0030 Responsibility for Installation and Maintenance of Protective Devices
741-115-0040 Special Requirements for Traffic Signal Interconnection
741-115-0050 Experimental Devices
741-115-0060 Stop Signs at Private Crossings

DIVISION 120

MAINTENANCE, CONSTRUCTION AND CLOSURE OF CROSSINGS

741-120-0010 Responsibility for Maintenance of Grade Crossings
741-120-0020 Grade Crossing Construction and Maintenance
741-120-0030 Separated Crossing Construction and Maintenance
741-120-0040 Authority for Closure of Crossings and Removal of Tracks at Crossings
741-120-0050 Permanent Closure and Removal of Grade Crossings

DIVISION 125		741-320-0160	Walkways on Curves
CROSSING BLOCKAGE		741-320-0170	Walkways for Trackside Warning Devices
741-125-0010	Blockage of Public Grade Crossings	DIVISION 325	
741-125-0020	Sounding of the Train Whistle at Grade Crossings	FORMS	
DIVISION 200		741-325-0010	Return of Inspection Forms Required
APPLICATIONS		DIVISION 330	
741-200-0010	Purpose	SIGNS	
741-200-0020	Applications Required	741-330-0010	Impairment/Restriction/Stop Signs
741-200-0030	Persons Who May Make Application	741-330-0020	Impaired Walkway/Nonstandard Walkway Warning Signs
741-200-0040	Form of Applications	741-330-0030	Location of Signs
741-200-0050	Information to Accompany Application	741-330-0040	Size and Design of Signs
741-200-0060	Application Alternative	DIVISION 335	
741-200-0070	Temporary Impairment of Clearances During Construction Period	RAILROAD CABOOSE AND LOCOMOTIVE SANITATION FACILITY AND WATER STANDARDS	
741-200-0080	Assignment of Responsibility for Continuing Costs	741-335-0010	Applicability of Rules
741-200-0090	Expiration of Authority to Construct Crossings	741-335-0020	Definitions
DIVISION 300		741-335-0030	Application for Variances
MINIMUM CLEARANCES — GENERAL		741-335-0040	Exempt Equipment
741-300-0050	Temporarily Impaired Clearances	741-335-0050	Caboose Sanitation Facilities
741-300-0060	Authorization for Impaired Clearances	741-335-0060	Locomotive Sanitation Facilities
DIVISION 305		741-335-0070	Toilet Construction
OVERHEAD CLEARANCES		741-335-0080	Toilet Room Ventilation
741-305-0010	Minimum Overhead Clearance	741-335-0090	Chemical Container Construction
741-305-0020	Buildings	741-335-0100	Incinerator Toilets
DIVISION 310		741-335-0110	General Sanitary Maintenance of Toilets and Toilet Rooms
SIDE CLEARANCES		741-335-0120	Toilet Room Supplies
741-310-0010	In General	741-335-0130	Drinking Water
741-310-0020	Side Clearance for Curved Track	741-335-0140	Drinking Water Containers
741-310-0030	Platforms	741-335-0160	Hand Cleaning Facilities
741-310-0040	Bridges and Tunnels	741-335-0170	Placing Caboose and Locomotives in Service
741-310-0050	Miscellaneous Structures	741-335-0180	Caboose Defect and Repair Register
DIVISION 315		DIVISION 400	
TRACK CENTERS		STANDARD FOR THE OPERATION BY CLASS I RAILROADS OF FREIGHT TRAINS WITHOUT AN OCCUPIED CABOOSE AS THE REAR CAR	
741-315-0010	Track Centers	741-400-0010	Standards for Cabooseless Train Operations
DIVISION 320		DIVISION 500	
STANDARD WALKWAYS		MOVEMENT OF EXCESS DIMENSION LOADS AND MARKING OF CARS AND OREGON RAILROAD HAZARDOUS MATERIALS TRANSPORTATION RULES	
741-320-0010	Applicability of Rules	741-500-0010	Excess Width Loads
741-320-0020	Definitions	741-500-0020	Notice of Lading Extending Laterally More than Five Feet, Five Inches
741-320-0040	Standards for Granting Variances	741-500-0030	Notice of Excess Width Loads Required
741-320-0050	Applications for Variances: Operation Restriction	741-500-0040	Exceptions
741-320-0060	Surface	741-500-0050	Cars Exceeding Ten Feet, Ten Inches in Width
741-320-0070	Slope	DIVISION 510	
741-320-0080	Walkway Standard No. 1: Between Yards and Switches	OREGON RAILROAD HAZARDOUS MATERIALS TRANSPORTATION RULES	
741-320-0090	Walkway Standard No. 2: Yards and Car Spotting Areas	741-510-0010	General Provisions and Definitions
741-320-0100	Walkway Standard No. 3: Switches	741-510-0020	Advance Notification of Transportation
741-320-0110	Walkway Standard No. 4: Derails	741-510-0030	Radio Requirements
741-320-0120	Access Walkways	741-510-0040	Inspection of Rail Cars
741-320-0130	Walkways on Structures		
741-320-0140	Walkways in Tunnels		
741-320-0150	Handrails		

DIVISION 520**HAZARDOUS WASTE**

- 741-520-0010** Adoption of Federal Regulations
741-520-0020 Discharge Clean Up

DIVISION 600**ACCIDENT NOTICES AND REPORTS**

- 741-600-0010** Definitions
741-600-0020 Accidents Requiring Notice and Report
741-600-0030 Additional Reports
741-600-0040 Joint Operations
741-600-0050 Overhead/Side Obstructions

DIVISION 700**UNIFORM SYSTEM OF ACCOUNTS FOR RAILROADS**

- 741-700-0010** Uniform System of Accounts for Railroads
741-700-0020 Class I Railroads and Subsidiary Railroad(s) Operating in Oregon
741-700-0030 Other Than Class I Railroads

DIVISION 710**RAILROAD REGULATORY FEE METHODOLOGY FOR COMPUTING THE REGULATORY RAIL FEE**

- 741-710-0010** Definitions
741-710-0020 Determination of Fee Components
741-710-0030 Responsibilities of Department
741-710-0040 Responsibilities of Class I Railroads

DIVISION 50**RAILROADS**

741-050-0010
Adoption of Federal Standards and Procedures for Regulation of Intrastate Railroad Rates

(1) Under Section 214 of the Staggers Rail Act of 1980 (Public Law 96-448, 49 Stat. 1985), a state may retain jurisdiction over intrastate railroad rates only if the standards and procedures of the Interstate Commerce Act, as amended by the Staggers Rail Act, are approved. In view of this requirement, the provisions of Subtitle IV of Title 49, United States Code, in effect on October 9, 1985, are hereby adopted by the Commission as the standard procedures to be used in the regulation of Oregon intrastate railroad rates.

(2) Under authority of Chapter 760, the Commission may investigate a rate which is below going concern value either on complaint or on its own motion. ORS 756.500 through 756.515 establishes procedures for filing complaints. Interstate Commerce Commission Rules and Regulations governing interstate complaints will apply to intrastate traffic. Cost analyses will be based on **Cost Standards for Railroad Rates, 364 ICC 898 (1981)**. The Commission, however, will not suspend a rate because it is unreasonably low. Under ORS 760.535, the Commission may award damages to persons paying unreasonable rates.

(3) The Commission has no jurisdiction over rate decreases; however, the Commission can investigate existing rates and will consider the following. A rate for transportation or other service provided by a rail carrier may not be established below a reasonable minimum. Any rate for transportation by such a rail carrier that does not contribute to the going concern value of such a carrier is presumed to be not reasonable. A rate that contributes to the going concern value of such carrier is conclusively presumed not to be below a reasonable minimum. A rate for transportation by a rail carrier that equals or exceeds a carrier's directly variable cost of providing the transportation is conclusively presumed to contribute to the carrier's

going concern value. A complainant has the burden of proving a rate is below a reasonable minimum.

NOTE: The Commission does not regulate, suspend, or investigate rate decreases nor is there statutory authority to do so. See *Southern Pacific Transportation Company vs. Heltzel*, 201 Or. 1, 268 P.2d 605.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.021

Hist.: PUC 5-1981, f. & ef. 6-29-81 (Order No. 81-412); PUC 14-1981, f. & ef. 12-31-81 (Order No. 81-917); PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0006

Procedures Governing the Filing and Timing Requirements of Rail Rates; Definition of Rates

741-050-0020**Applicability**

The procedures established by the Commission governing the filing of rail rates shall apply to all rail rates (except contract rates) over which the Commission has jurisdiction. In particular, those specific rules relating to the filing of protests and complaints in rules 741-050-0100 through 741-050-0160 and federal law applicable thereunder shall supercede the general applicability of state statutes wherever they may conflict.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.105

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0008

741-050-0030**Definition of Rates**

As used in this division, the term rate shall include any rail rate, classification, rule or practice that a railroad or railroads file with the Commission for application to Oregon intrastate traffic.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.110

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0009

741-050-0040**Tariff Form and Content**

(1) Except as provided in 741-050-0050, railroads filing tariffs with the Commission shall use the form and content required by **49 CFR 1300.0 through 1300.200**.

NOTES:

-1- Under ORS 760.110(6) a railroad must also give lawful notice of the effective date of any tariff.

-2- A railroad shall not be required to file with any rate schedule supporting cost data or other evidentiary prejustification for a published rate.

(2) Any party opposing the rate must file a complaint as provided in ORS 760.126 and when seeking suspension must make the showing required in ORS 760.131(3).

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.110

Hist.: PUC 5-1981, f. & ef. 6-29-81 (Order No. 81-412); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0010

741-050-0050**Tariff Filings — Copies Required**

A railroad or railroads filing tariffs or supplements shall provide the Commission with one conformed copy of each tariff or supplement it files.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.110

Hist.: PUC 5-1981, f. & ef. 6-29-81 (Order No. 81-412); Renumbered from 860-41-020; PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0020

741-050-0060**Request for Abbreviated Notice**

A railroad requesting abbreviated notice under ORS 760.110(3) shall file with the Commission upon forms provided by the Commission a petition which contains:

(1) A statement of facts which the railroad believes justifies abbreviated notice;

(2) A statement of the specific notice requirement to be waived; and

(3) The proposed effective date of the tariff change.

NOTE: The Commission will accept those LSN forms in use on October 9, 1985.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.110

Hist.: PUC 5-1981, f. & ef. 6-29-81 (Order No. 81-412); Renumbered from 860-41-025; PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0025

741-050-0070

Period of Notice

Changes in any fare, rate, charge, or classification, or any rule, regulation, or practice shall be filed by the railroad as follows:

(1) Rate Increases:

(a) Tariff changes which result in an increase in revenue or decrease in value of service to the railroad shall be filed at least twenty (20) days before the date on which they are to become effective;

(b) A tariff cancelling the application of a joint rate must be filed at least forty-five (45) days before its effective date.

(2) Rate Decreases: Tariff changes which result in a decrease in revenue or increase in value of service to the railroad shall be filed at least ten (10) days before the date on which they are to become effective.

(3) Nonrevenue Changes: Tariff changes which result in no change in revenue to the railroad shall be filed at least ten (10) days before the date on which they are to become effective.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.110

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-60-030

741-050-0080

Tariff Defects

If a tariff is filed and becomes effective despite some defect, the rates, charges, fares, classifications, rules, etc. in that tariff shall be effective and will be applied until such tariff is cancelled, amended or stricken in accordance with lawful procedures.

NOTE: The Commission does not review tariffs. If the Commission becomes aware of a defective tariff before it becomes effective, the Commission will notify the tariff publishing officer for advice. The Commission will return the tariff if advised to do so.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.110

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0032

Rules of Procedures for Rail Rate Proceedings

741-050-0090

Applications to Establish Rates Based on Released or Declared Valuation

Applications for authority to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property as provided in ORS Chapter 771, shall contain the following information:

(1) A statement setting forth all reasons relied upon in support of the authority requested.

(2) A statement setting forth the nature and transportation characteristics of the commodity (e.g., density, value, susceptibility to damage, etc.) or commodities to be made subject to the proposed rates.

(3) A statement setting forth whether or not a similar application has been filed with the Interstate Commerce Commission and its determination thereof.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.143

Hist.: PUC 5-1981, f. & ef. 6-29-81 (Order No. 81-412); Renumbered from 860-41-040; PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0040

741-050-0100

Formal Proceedings

(1) A formal proceeding shall be commenced by filing with the Commission the original and two (2) copies of a petition requesting

review of a rail rate, setting forth briefly in plain language the relief requested and the facts upon which such request is based.

(2) A petition shall include the following:

(a) Identification of the involved rate, by tariff and item number, and by such details of the movement as are necessary to identify how such tariff and item are applicable;

(b) The name, address and telephone number of the agent for receipt of service for the complainant/petitioner and the name and address of all known defendants/respondents;

(c) Whether or not the complainant/petitioner requests the Commission to investigate the rate;

(d) Whether or not the complainant/petitioner requests suspension of the rate; and

(e) A verified statement of facts in support of the complaint or petition showing:

(A) The applicable rate;

(B) The revenue/variable cost ratio of the involved movement or such other evidence as is necessary to support complainant/petitioner's position;

(C) All underlying data used to perform complainant/petitioner's analyses of the variable costs and the evidence associated with the involved movement on which complainant/petitioner relies;

(D) The methodology and cost data base used in the analyses of the variable costs and other similar evidence associated with the involved movement;

(E) Facts which establish defendant/respondent railroad or railroads have market dominance over the traffic involved;

(F) Facts that establish the extent to which the rate is not authorized under 49 U.S.C. 10707a; and

(G) Other facts necessary to support a request for suspension, if such request is made.

(3) A complainant/petitioner may seek suspension only of a new or increased rate. Any such petition for suspension shall include a showing:

(a) That the complainant/petitioner is an interested party responsible for payment of or affected by the assessment of the rate;

(b) That the complainant/petitioner is substantially likely to prevail on the merits;

(c) That without suspension the proposed rate or increase will cause substantial injury to complainant/petitioner or the party represented by such complainant/petitioner; and

(d) That because of peculiar economic circumstances the requirement that a railroad refund money in excess of the amount found to be reasonable does not protect complainant/petitioner.

(4) The Commission shall act on any investigation or suspension of a tariff filing within the Commission's jurisdiction relating to an intrastate rate, rule or practice similar to such tariff filing on tariff moving in interstate commerce within 120 days after the tariff is filed. The carrier filing the tariff may apply to the Interstate Commerce Commission to review the matter if the Commission has not so acted. If the carrier elects not to refer the matter to the Interstate Commission, the Commission may decide the issue within the time prescribed by ORS 760.131.

NOTES:

-1- Only new or increased rates are subject to suspension by the Commission under ORS 760.131.

-2- The Commission may not suspend or investigate any adjustments to base rates that are designed to cover inflation.

-3- The Commission shall not suspend, investigate or entertain complaints regarding the six percent and four percent zone of flexibility except in accordance with standards in 49 U.S.C. 10707a.

The Commission cannot suspend rate increases within these zones, and may not investigate such increases on complaints or its own motion unless the increases result in a revenue-to-variable cost ratio that equals or exceeds 190 percent or is more than 20 percentage points above the revenue-to-variable cost percentage applicable in the year of the increase under 49 U.S.C. 10709(d) whichever is less. See 49 U.S.C. 10707a(e)(2)(A).

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.143

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0060

741-050-0110

Timing Requirements for Petitions

The petition requesting review and suspension of a rail rate must be received by the Commission at least:

(1) Ten (10) days prior to the effective date when the proposed new or increased rate is to become effective upon not less than twenty (20) days' notice; and

(2) Five (5) days prior to the effective date when the proposed new or increased rate is to become effective upon not less than ten (10) days' notice.

(3) Upon such shorter period as the Commission may prescribe when the new or increased rate is to become effective on less than ten (10) days' notice.

NOTE: Only new or increased rates are subject to suspension by the Commission under ORS 760.131.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.143

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0070

741-050-0120

Contents of Answer by Respondent Railroad

Answers to petitions against a rail rate shall be responsive to the points raised therein and should include (as appropriate) the following:

(1) A designation of the document as an answer to a petition;

(2) Identification of the involved rate by tariff and item number;

(3) Identification of the proceeding by the case number assigned by the Commission, if known;

(4) Whether or not the railroad filing the answer disputes the Commission's jurisdiction over the involved rate; and

(5) A verified statement of facts in support of the answer including facts showing:

(a) Applicable rate or rates at issue;

(b) The basis on which defendant/respondent supports the involved rate or rates;

(c) When appropriate, the applicable revenue/variable cost ratio evidence involved in the movement together with such underlying computations associated with the involved movement as respondent/defendant relies on;

(d) An explanation of the methodology in any cost data base used in analyses associated with the involved move; and

(e) The extent to which the rate is authorized under 49 U.S.C. 10707a.

(6) Respondents may also address, to the extent possible, any differences between revenue/variable cost data provided by respondent and data provided by the petitioner.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.143

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0080

741-050-0130

Timing Requirements for Answers

An answer to a petition requesting review and suspension of a rate must be received by the Commission no later than:

(1) The fourth working day prior to the effective date when the proposed new or increased rate is to become effective upon not less than twenty (20) days' notice; and

(2) The second working day prior to the effective date when the proposed new or increased rate is to become effective upon not less than ten (10) days' notice.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.143

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0090

741-050-0140

Late Filing of Petitions and Answers

A party which does not file its petition or answer within the time required by OAR 741-050-0110 and 741-050-0130 may request the Commission to accept a late filing. Any such request must accom-

pany a petition or answer and show good cause as to why the petition or answer was not timely filed. The Commission may accept a late filing only when a valid showing of good cause for failure to make a timely filing has been made.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.143

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0100

741-050-0150

Docketing and Notice of Proceedings

All proceedings before the Commission may be set for hearing by order of the Commission which shall also provide for notice to all interested parties. The original order may also fix dates for the filing of prepared testimony and responsive argument and contain such other directives as the Commission shall deem necessary or proper.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.143

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0110

741-050-0160

Market Dominance Determinations

(1) Upon notification that a verified petition has been received by the Commission, the respondent railroad or railroads shall, upon request, submit to the Commission within ten (10) working days, or such additional time as the Commission may prescribe, verified evidence to establish lack of market dominance. The respondent railroad will bear the burden of demonstrating that the Commission lacks jurisdiction to review the rate because the rate does not exceed the applicable revenue-variable cost threshold. The railroad may meet its burden of proof under this section by submitting its unadjusted variable cost for the challenged rate. If the revenue-variable cost computations fall under the applicable jurisdictional threshold, the burden will shift to the petitioner to prove that the jurisdictional threshold is met. A petitioner may rebut the railroad's evidence with a showing of either unadjusted or adjusted variable costs:

(a) For the purpose of administering this section the traffic for which the rate applies shall be conclusively presumed not market dominant if the rate results in a revenue-variable cost percentage that is less than:

(A) 175 percent for the period October 1, 1983, through September 30, 1984; and

(B) The cost recovery percentage or 180 percent, whichever is less, for the period on or after October 1, 1984.

(b) For the purposes of paragraphs (a)(A) and (B) of this section, the cost recovery percentage shall in no event be less than a revenue/variable cost percentage of 170 percent or more than a revenue/variable cost percentage of 180 percent.

NOTE: The Interstate Commerce Commission is required to determine the cost recovery percentage on an annual basis. The applicable cost recovery percentage for applying paragraphs (1)(a)(A) and (B) above may be obtained on and after October 1, 1983, from the Commission at (503) 378-6659.

(2) A finding by the Commission that a rate charged by a railroad is equal or greater than the applicable revenue-variable cost percentage, or the cost recovery percentage, does not create a presumption that the railroad has market dominance over such transportation. If substantial evidence is presented that establishes an applicable cost recovery percentage noted in paragraph (1)(a)(A) of this rule, the Commission will then consider other evidence of competition to determine whether the railroad or railroads proposing the challenged rate have market dominance:

(a) The petitioner will bear the burden of demonstrating that there exists no effective intramodal or intermodal competition for the transportation to which the rate applies. The petitioner may meet its burden of proof under this subsection by showing either that alternative transportation is not available, or that it is not feasible to use alternative transportation which is available, or that because of service or rate differences the alternative transportation does not effectively compete for the traffic. A respondent railroad may rebut the petitioner's showing with evidence that effective intra or intermodal competition exists.

(b) The respondent railroad shall have the burden of identifying product or geographic competition that may exist for the involved transportation. The petitioner will then have the burden of proving that such competition is not effective.

(c) Definitions:

(A) "Intramodal Competition": Competition for the involved transportation from other railroads.

(B) "Intermodal Competition": Competition for the involved transportation from motor carriers, water carriers or other nonrail modes of transportation.

(C) "Product Competition": Product competition occurs when a consignor or consignee can use a substitute or substitutes for the product covered by the rail rate.

(D) "Geographic Competition": The availability to a consignor or consignee, at a competitive delivered cost of the products or commodities to which the rate applies from origins or to distinctions different from those to which the rate applies.

NOTES:

-1- "Market dominance" is defined in ORS 760.126(2)(a) and (b).

-2- Under ORS 760.126(3)(d), if a rate is challenged and the Commission finds that the railroad has market dominance over the transportation to which the rate applies, the Commission shall proceed to determine whether the rate exceeds a maximum reasonable level for transportation.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.126

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0120

741-050-0170

Justification to Investigate a Rate Increase

In determining whether to investigate or not to investigate any proposed rate increase that results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than a revenue-variable cost percentage of 190 percent, (without regard to whether such rate increases are authorized under **49 U.S.C. 10707a**), the Commission shall set forth reasons giving due consideration to the following factors:

(1) The amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

(2) The amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

(3) The impact of the proposed rate or rate increase on the attainment of the national energy goals and the rail transportation policy under **49 U.S.C. 10101a**, taking into account the railroads' role as primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of **49 U.S.C. 10704**.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stat. Imp.: ORS 760.126

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0125

741-050-0180

Burden of Proof

(1) Burden of Proof in Determining Reasonableness of Rate Increases: The railroad or railroads filing a new or increased rate which is challenged will have the burden of proving such rate is reasonable if:

(a) The rate is outside the zone of rate flexibility authorized by **49 U.S.C. 10707a**, or the rate results in a revenue-variable cost percentage equal to or greater than the lesser of 190 percent of variable cost or 20 percentage points above the applicable revenue-variable cost threshold; or

(b) The Commission determines the railroad or railroads have market dominance; and

(c) The Commission initiates an investigation under ORS 760.131.

(2) Burden of Proof in Determining the Reasonableness of Existing Rates Challenged as Unreasonably High: A party challenging an existing rate as unreasonably high will bear the burden

of proving that such rate is unreasonable. All intrastate petitions filed pursuant to the savings provisions of the Staggers Rail Act of 1980 are closed. Rates effective on October 1, 1984 are base rates. An adjusted base rate is the base rate of a particular transportation service multiplied by the latest rail cost adjustment factor published pursuant to **49 U.S.C. 10707a**. In accordance with the foregoing section, a rate cannot be found to exceed a reasonable maximum unless, in a given year, the rate is increased above the adjusted base rate by an amount more than allowed under **49 U.S.C. 10707a** (4 percent per year after October 1, 1984, but not to apply if the carrier earns adequate revenue as determined by the Interstate Commerce Commission) or the revenue-to-variable cost ratios of the rate equal or greater than the criteria in **49 U.S.C. 10707a(e)(2)(A)**.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stat. Imp.: ORS 760.126

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0130

741-050-0190

Standards for Determining Reasonableness

(1) Maximum Rates: In determining whether a rate is reasonable, the Commission shall consider, among other factors, evidence related to tariff rates of the following:

(a) The amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

(b) The amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic;

(c) The railroad's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the railroad's overall revenues; and

(d) The railroad's revenue adequacy as established by standards promulgated by the Interstate Commerce Commission.

(2) Maximum Rates for Transportation of Recyclable Materials: Notwithstanding any other provision of these rules, rail rates for the transportation of recyclable or recycled materials, other than recyclable or recycled iron or steel, shall be presumed unreasonable when the rate applicable to such movement produces revenue at a level which is greater than that established by the Interstate Commerce Act under **49 U.S.C. 10731(e)**.

NOTE: The Oregon Revised Statutes do not address recyclable materials traffic as addressed under **49 U.S.C. 10731(e)**. The general authority of ORS 760.021 requires the Commission: (1) to exercise the authority granted to regulate railroads to the maximum allowable extent allowed under federal law; and (2) to be certified in accordance with **49 U.S.C. 11501** which the Commission relies on to establish section (2) of this rule.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stat. Imp.: ORS 760.126

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0140

741-050-0200

Discrimination

Under **49 U.S.C. 10741**, difference in rates do not amount to discrimination if they result from different services. Discrimination does not apply to:

(1) Contract rates;

(2) Surcharges or cancellation under **49 U.S.C. 10705a**;

(3) Separate rates for distinct rail services;

(4) Rail rates applicable to different routes;

(5) Expenses authorized under **49 U.S.C. 10751**

NOTE: Authority for this rule is found in ORS 760.021, 760.026, 760.140, and 760.170.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Imp.: ORS 760.175

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0145

741-050-0210

Waivers and Refunds

(1) A railroad may request the Commission to waive the collection of amounts due or refund a portion of amounts collected if such amounts are insignificant and the action furthers the rail transportation policy of **49 U.S.C. 10101a** and may refund or waive collection of charges for intrastate transportation which the Commission determines are in excess of just and reasonable charges for such services:

(a) Petitions to Waive Collection of or Refund of Insignificant Amounts and Amounts Determined to be Excessive: If a railroad wishes to waive the collection of or to refund freight charges under ORS 760.131(6) when such amounts are more than \$5,000, or under ORS 760.120, a petition for appropriate authority shall be filed by the railroad. These petitions shall contain the following information:

(A) The name and address of the customer for whom the railroad wishes to refund charges or waive collection:

(i) Petitions covering waiver of amounts more than \$5,000 under ORS 760.131(6) shall be labeled a "Letter of Intent to Waive Insignificant Amounts."

(ii) Petitions covering refunds or waiver of collection under ORS 760.120 shall be labeled as a "Special Refund or Waiver Letter."

(B) The name and address of the railroads involved in the intended refund or waiver and a statement certifying that all railroads concur in the action.

(C) The number of the investigation and suspension case involved, if appropriate, and the beginning and ending dates of the suspension period, and any other pertinent tariff information.

(D) The points of origin and destination of the shipments and the routes of movement, if relevant.

(E) A brief statement of justification for the intended waiver or refund, including the anticipated costs of accounting functions and litigating if the waiver or refund is not permitted.

(F) The amount to be waived.

(b) Public Notice and Protest: Petitions to refund charges or waive their collection authorized by this rule shall be made available by the Commission for public inspection after receipt, in the office of the Transportation Administration Program, Labor and Industries Building, Salem, Oregon 97310. Any interested person may protest the granting of a petition by filing a letter of protest with the Commission within thirty (30) days of the Commission's receipt of the petition. Letters of protest shall identify the case number, shall clearly state the reasons for the objection, and shall certify that a copy of the letter of protest has been served upon all parties named in the petition. A period of fifteen (15) days will be allowed for answer.

(c) Uncontested Petitions: A petition which is not contested will be considered an order of the Commission authorizing the action contemplated in the petition 45 days after Commission's receipt of petition. Within 30 days after the expiration of the 45-day period the carrier filing the petition shall file a Letter of Disposition informing the Commission of the action taken, the date of the action, and the amount paid or waived.

(d) Notice in All Cases: Any waiver or refund made pursuant to this section shall be reported in writing to the Commission by providing the information in this rule concerning the action taken, the date of action, and the amount of moneys due that were waived. Such report shall be made by the railroad waiving charges within thirty (30) days after the waiver has taken place.

(2) If the amount to be waived is \$5,000 or less, no petition need be filed prior to waiver, provided this exemption may be invoked by a carrier only once for any person who uses the suspended rate during the suspension period. A Letter of Disposition informing the Commission of the action taken, the date of the action, and the amount waived shall be submitted to the Commission within 30 days of the waiver.

NOTE: This rule is intended to implement ORS 760.120 and ORS 760.131(6)(b) as amended by HB 2329. The rule is intended to be consistent with **49 CFR 1130**. This rule has been amended by **Docket No. 37130(2)** as found in **15 FR 15900** dated April 23, 1983.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.120

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0150

Special Rules for Contract Rate Filings

741-050-0220

Definition of the Term "Contract"

(1) A contract subject to this section is a written agreement, including any amendment, entered into by one or more railroads with one or more purchasers of rail services, to provide specified services under specified rates, charges and conditions.

(2) A contract filed under this section shall:

(a) Specify that the contract is made pursuant to ORS 760.140; and

(b) Be signed by duly authorized parties.

(3) The term "amendment" includes written contract modifications signed by the parties.

(4) An amendment is treated as a new contract. An amendment is lawful only if it is filed and approved in the same manner as a contract. To the extent terms affecting the lawfulness of the underlying contract are changed, remedies are revived and review is again available.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.140

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0200

741-050-0230

Filing of Contracts

(1) Filing of contracts and summary of nonconfidential elements:

(a) Railroads shall file with the Commission an original of a contract entered into with one or more purchasers of rail service.

(b) The contract shall be accompanied by two copies of a summary of the nonconfidential elements of the contract in the format specified in **49 C.F.R. 1300.300-1300.315**. A contract and procedures for filing shall also follow procedures set forth in **49 C.F.R. 1039**. A contract and contract summary (and amendments and supplements) may be rejected for noncompliance with applicable statutes and regulations. Within thirty (30) days of the filing of a contract, the Commission may on its own motion or on complaint begin a proceeding to review it which can be based only on violations described in ORS 760.140 or rules prescribed by the Commission in **49 C.F.R. 1039**.

NOTE: In accordance with ORS 760.143(5), if a contract is in violation of ORS 760.140(2)(c), the Commission shall either (A) disapprove the contract; or (B) subject to the provisions of ORS 760.140, order the carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence in the proceeding. In regulating railroad rates, the Commission is required to be consistent with the Staggers Rail Act of 1980 (ORS 760.021). Federal regulations allow a third option, i.e., allow the carrier to cancel the contract. If the Commission makes a finding of unreasonable discrimination under ORS 760.140(2)(c), the Commission understands the carriers have the right to cancel the contract unless the Commission specifically specifies option (B) above.

(2) Filing and Service of Petitions for Review of Contract:

(a) A petition shall be filed with the Commission by the 18th day after the filing date of the contract.

(b) A reply shall be filed by the 23rd day after the filing of the contract.

(c) An original and two copies of each shall be filed with the Commission.

(d) A copy of the petition shall be served on each railroad participating in the contract and replies shall be served on petitioner. Petitions shall be served by hand, express mail, or other overnight delivery service.

(3) Approval Date of Contract:

(a) If no party files a petition within the time allotted in section (1) of this rule, the contract is approved on the 30th day after the filing of the contract.

(b) If a party files a petition to review a contract, the contract is approved:

(A) On the date the Commission approves the contract if the date of approval is 30 or more days after the filing date of the contract; or

(B) On the 30th day after the filing date of the contract if the Commission denies the petition against the contract prior to the 30th day after the filing date of the contract.

NOTE: Under ORS 760.140(3)(b) a contract is automatically approved if the Commission fails to disapprove the contract on or before the 60th day after it is filed.

(4) **Effective Date of a Contract:** A contract may be effective on the date it is filed but cannot be effective before it is filed. The contract may state "Effective on Date Filed" or else specify a particular effective date on or any time after the filing date.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.140

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0210

Exemption Authority

741-050-0240

Automatic Application of Interstate Commerce Commission Exemptions

Under ORS 760.026, the Commission is authorized to exempt persons, class of persons or transactions or services from regulation. An exemption granted by the Interstate Commerce Commission for a class of interstate traffic shall automatically apply in Oregon to the same category of intrastate traffic.

NOTE: See 49 C.F.R. 1039 and reported Interstate Commerce Commission cases for the extent of exemptions granted by the Interstate Commerce Commission. The Interstate Commerce Commission exempted rail rates and charges from the need for prior Commission approval of the requirements found in 49 U.S.C. 10726(a)(1) which is equivalent to ORS 760.170(3)

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.026

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0300

741-050-0250

Proceedings to Exempt Other Intrastate Traffic

(1) Petitions under ORS 760.026(2), to exempt a class of intrastate traffic shall contain the following:

(a) A full and clear statement of facts which the party is prepared to prove by competent evidence, the proof of which will warrant the specific exemption sought;

(b) Details of the exemption sought and the specific legal basis therefor; and

(c) The name and address of each party by or for whom the application is filed, and the name and address of counsel, if any.

(2) **Duration of Exemption:** The Commission may specify the period of time during which an exemption is effective.

(3) **Revocation of Exemption under OAR 741-050-0240 or 741-050-0250:**

(a) The Commission may revoke an exemption, in whole or in part, when it finds that regulation is necessary to carry out the transportation policy of 49 U.S.C. 10101a and ORS 760.021. The Commission will not revoke an exemption established by the Interstate Commerce Commission under 49 U.S.C. 10505.

(b) But, exemptions established by the Interstate Commerce Commission shall remain in full force and effect for intrastate rail traffic until such time as the Interstate Commerce Commission revokes such intrastate exemption, at which time the Interstate Commerce Commission's order is to be effective on intrastate traffic as if it were an order of the Commission.

(4) **Exemption Only Granted by Formal Order:** No exemption of intrastate rail transportation within Oregon may be granted, modified, or revoked under the provisions of ORS 760.026 or 49 U.S.C. 10505, except by order of the Commission or the Interstate Commerce Commission.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.026

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0310

Joint Line Surcharges and Cancellations

741-050-0260

Required Notice of Joint Rate Surcharges and Cancellations

A railroad applying a surcharge or cancelling the application of a joint rate under 49 U.S.C. 10705a shall file a tariff with the Commission in accordance with the Commission's Procedures Governing the Filing and Timing Requirements of Rail Rates. Such a tariff may not become effective until the expiration of the 45-day period (or such longer period as the filing railroad specifies) beginning on the date such tariff is filed.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.105

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0400

741-050-0270

Procedures for Determining Variable Cost for Movement Subject to Joint Rate Surcharge or Cancellation

The variable cost of any movement subject to a joint rate surcharge or cancellation may be determined by an effective shipper or port by use of the following procedure:

(1) **Request for Underlying Data from the Railroad:** A shipper or port may request in writing that a railroad provide its division of revenue for the rail movement at issue. The surcharging or cancelling railroad shall provide a shipper or port with its division of revenue within 10 working days of receipt of a request. If the request is not timely honored, the tariff may be suspended and investigated by the Commission and ultimately disapproved.

(2) **Request for Determination of Revenue-Variable Cost by the Commission:**

(a) **Written Request Required:** A request for the Commission to determine the variable cost of a movement subject to a joint rate surcharge or cancellation shall be filed in writing, shall be route-specific and must include for each surcharged rate or cancelled route:

(A) The surcharging or cancelling railroad's division of revenue;

(B) The amount of the surcharge;

(C) The tariff minimum weight;

(D) The tariff rate applicable at the minimum weight, tariff reference, and applicable unit (e.g., per hundred weight);

(E) The car type or types in which the traffic normally moves;

(F) The commodity description — Standard Transportation Commodity Code;

(G) The class traffic;

(H) The number of intertrain and intratrain switches; and

(I) The origin, destination, interchanges, carriers used, and the short line distance of the surcharging or cancelling carrier's line (from the published distance tables) from or to the interchange point(s) at which the traffic is tendered.

(b) **Certification That No Feasible Transportation Alternatives Required:** Along with any written request for variable cost and revenue information, a shipper or port must certify to the Commission that it has no feasible transportation alternatives to the surcharged or cancelled routes.

(c) **Provision of information by the Commission:** The Commission shall furnish, within 10 working days of receipt of a written request, its determination of the variable cost of service and revenue of a railroad applying a surcharge or cancelling the application of a joint rate.

Stat. Auth.: ORS 192, ORS 756, ORS 760, & ORS 771

Stats. Implemented: ORS 760.105

Hist.: PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0410

DIVISION 55

AGENCY PROCEEDINGS

741-055-0010

Petition to Abandon Agency or Withdraw Agent

A railroad petitioning the Department for authority to abandon an agency or withdraw its agent under ORS 823.390 shall include in its petition:

(1) The names and addresses of those customers who have used the carrier's services over the two years preceding the filing of the petition.

(2) A statement as to how the agent's duties will be handled should the petition be granted, including provision for toll-free telephone communication, a procedure for handling bills of lading, identification of the location where the work will be performed after abandonment, and identification of the work hours of the new location.

(3) A statement of the anticipated annual savings which can be realized if the petition is granted.

Stat. Auth.: ORS 192, ORS 823 & ORS 824

Stats. Implemented: ORS 823.011 & ORS 823.075

Hist.: PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); PUC 16-1985, f. & ef. 10-9-85 (Order No. 85-960); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-040-0500

DIVISION 60

**STATE SAFETY OVERSIGHT OF
RAIL FIXED GUIDEWAY SYSTEMS**

741-060-0010

General Provisions

(1) OAR 741-060-0010 through 741-060-0090 establish the system safety criteria to be met by rail fixed guideway systems in the State of Oregon.

(2) Federal Transit Administration standards and requirements, U.S.C. 5330 and Title 49 of the Code of Federal Regulations, Part 659, Rail Fixed Guideway Systems, State Safety Oversight, effective January 26, 1996, are hereby adopted by reference as the minimum acceptable safety program standards. These federal regulations are available from the Oregon Department of Transportation Rail Section.

(3) OAR 741-060-0010 through 741-060-0090 apply to all rail transit agencies operating rail fixed guideway systems in the State of Oregon.

(4) The Oregon Department of Transportation, Rail Section, shall monitor compliance with the safety program standards.

(5) On or before January 15 of each year, each transit agency shall certify to the Rail Section that it has complied with the provisions of OAR 741-060-0010 through 741-060-0090, for the preceding year.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

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

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98

741-060-0020

Definitions

As used in OAR 741-060-0010 through 741-060-0090, the following definitions apply:

(1) "Accident" means any event that occurs during the revenue service operation of a rail fixed guideway system, if as a result:

(a) An individual dies;

(b) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or

(c) A collision, derailment or fire causes property damage in excess of \$50,000.

(2) "APTA Guidelines" means the American Public Transit Association's "Manual for the Development of Rail Transit System Safety Program Plans," published August 20, 1991. This manual is

available from the Oregon Department of Transportation, Rail Section.

(3) "Contractor" means an entity that performs tasks required by Division 60 rules on behalf of the Rail Section or transit agency. The transit agency may not be a contractor for the Rail Section.

(4) "Danger" means exposure to injury, damage, loss or pain.

(5) "Department" means the State of Oregon Department of Transportation.

(6) "FTA" means the Federal Transit Administration, an agency within the U.S. Department of Transportation.

(7) "Hazardous condition" means a condition that may endanger human life or property, including unacceptable hazardous conditions.

(8) "Investigation" means a process to determine the probable cause of an accident or an unacceptable hazardous condition. It may involve, at a minimum, no more than a review and approval of the transit agency's determination of the probable cause of an accident or unacceptable hazardous condition.

(9) "Rail Fixed Guideway System" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley or automated guideway that is:

(a) Included in the FTA's calculation of fixed guideway route miles or receives funding under Fats formula program for urbanized areas (49 U.S.C. 5336); and

(b) Not regulated by the Federal Railroad Administration.

(10) "Rail Section" means the Rail Section of the Transportation Development Branch of the Oregon Department of Transportation.

(11) "Safety" means freedom from danger.

(12) "Security" means freedom from intentional danger for employees and passengers.

(13) "Security breach" means an unforeseen event or occurrence which endangers life or property and may result in the loss of services or system equipment. For reporting requirements, security breach includes, but may not be limited to:

(a) Homicide;

(b) Forcible rape;

(c) Robbery;

(d) Aggravated assault;

(e) Bomb threat, with device; or

(f) Hijack.

(14) "System Safety Program Plan" means a document adopted by the transit agency detailing its safety policies, objectives, responsibilities and procedures.

(15) "System Security Program Plan" means a document adopted by the transit agency detailing its security policies, objectives, responsibilities and procedures. The system security plan may be a portion of the system safety program plan.

(16) "Transit system" means any entity operating a rail fixed guideway system.

(17) "Transit System Security Program Planning Guide" means the guidelines available from the FTA for the development of System Security Program Plans.

(18) "Unacceptable hazardous condition" means a hazardous condition that is determined to be "unacceptable" using the APTA Guidelines Hazard Resolution Matrix (Checklist #7) and that could cause death or serious injury to passengers or employees if not immediately corrected.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

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

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98

741-060-0030

System Safety Program Plan Requirements

(1) Each transit agency shall prepare a system safety program plan. The plan shall conform to the APTA Guidelines and OAR 741-060-0010 through 741-060-0090.

(2) The system safety program plan, including any subsequent revisions, shall be submitted to the Rail Section for review and approval.

(3) The system safety program plan shall describe the method used to maintain effective communications and liaison with Rail Section staff for:

- (a) Reporting and investigating accidents and unacceptable hazardous conditions;
 - (b) Submitting corrective action plans;
 - (c) Submitting annual internal safety audit reports; and
 - (d) Facilitating on-site safety reviews by the Rail Section.
- (4) The transit agency shall implement and comply with the system safety program plan during the operation of the rail transit system.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98

741-060-0040

Monitoring the System Safety Program Plan

(1) Rail Section staff, or its contractor, may perform inspections, investigations and reviews of the operation and maintenance of each rail fixed guideway system to assess whether the actual safety and practices for the transit agency comply with its system safety program plan.

(2) At least once every three years, Rail Section staff, or its contractor, shall conduct an on-site review of the implementation of each 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 Section, 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 the implementation procedures.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98

741-060-0050

System Security Program Plans Requirements

(1) Each transit agency shall prepare a system security program plan. The plan shall conform to the FTA "Transit Security Program Planning Guide" and OAR 741-060-0010 through 741-060-0090. The system security program plan may be contained in the system safety program plan.

(2) The system security program plan shall describe the policies, objectives, responsibilities and procedures for the personal security of employees and passengers.

(3) The system security program plan, including any subsequent revisions, shall be submitted to the Rail Section for review and approval.

(4) The transit agency shall comply with the system security program plan for the operation phase of the rail transit system.

[Publications: The publication(s) referenced to in this rule are available from the agency.]
Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98

741-060-0060

Monitoring the System Security Program Plan

(1) Rail Section staff, or its contractor, may perform investigations and reviews of the operational phase of each rail transit agency to assess that the actual security practices for the transit agency comply with its system security program plan.

(2) At least once every three years, Rail Section staff, or its contractor, shall conduct an on-site review of the implementation of each transit agency's system security program plan to verify compliance with, and evaluate the effectiveness of, the plan. Following each triennial on-site review, the Rail Section, or its contractor, shall prepare a written report of its findings and recommendations, and the need, if any, for updating the system security program plan or revising the implementation procedures.

(3) The Rail Section and the transit agencies are prohibited from publicly disclosing the tactical portion of system security program plans, or the security portion of system safety program plans, as applicable, under any circumstances.

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

Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98

741-060-0070

Requirements for Internal Safety Audits

(1) Planned and scheduled internal safety audits shall be performed by each transit agency to evaluate compliance and measure the effectiveness of its system safety program plan and system security program plan.

(2) Each internal safety audit shall be performed in accordance with a written checklist by personnel technically qualified to verify compliance and assess the effectiveness of the system safety program plan and system security program plan activity being audited. The auditors may be organizationally assigned to the unit responsible for the activity being audited, but they must be independent from the first line of supervision responsible for performing the activity being audited.

(3) Internal safety audits shall be documented in an annual audit report that covers the audits performed and the results of each audit in terms of the adequacy and effectiveness of the system safety program plan and system security plan. The annual report for the internal safety audits performed during the preceding year shall be submitted to the Rail Section prior to the 15th of January of each year.

Stat. Auth.: ORS 184.616, ORS 184.619 & ORS 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98

741-060-0080

Requirements for Reporting Accidents, Security Breaches and Unacceptable Hazardous Conditions

(1) Each transit agency shall report certain accidents and security breaches, and all unacceptable hazardous conditions to the Rail Section. An accident requiring a report within 24 hours is one that meets the definition established in OAR 741-060-0020(1), and is associated with the operation of rail transit vehicles and other on-track equipment at any location in the system, including at-grade crossings, station platforms, mainline and yard tracks. A security breach requiring 24 hour notice is one that meets the definition in OAR 741-060-0020(13). An unacceptable hazardous condition is one that has been identified by the transit agency and meets the definition in OAR 741-060-0020(18).

(2) Within 24 hours, each transit agency shall notify the Rail Section by telephone or FAX, of an accident, security breach or any unacceptable hazardous condition. The report shall contain the following information:

- (a) Name of reporting party;
- (b) Date and time of report;
- (c) Date and time of accident or security breach and possible cause of accident;
- (d) Location and brief description of accident, security breach or unacceptable hazardous condition;
- (e) Action taken to insure safety of employees and public for security breach; and
- (f) Action taken to assure safety of trains for an unacceptable hazardous condition.

(3) Each transit agency shall file a monthly summary report:

(a) Summarizing the number of accidents, including any other accident involving:

(A) A collision between rail transit vehicles and motor vehicles or pedestrian at a gated crossing;

(B) A collision between rail transit vehicles or between a rail transit vehicle and other on-track equipment or between on-track equipment;

(C) A fire or other event that requires the evacuation of passengers or requires fire suppression activities conducted by a fire department; or

(D) A derailment that damages or fouls the mainline.

(b) With a copy of a detailed report attached for each accident and unacceptable hazardous condition listed on the summary report;

(c) Whether or not any accident occurred or any unacceptable hazardous condition was identified during the month; and

(d) Within 45 days from the last day of the month covered.

(4) Each transit agency shall file a quarterly report summarizing the number of security breach events reported during this period. This report shall be due within 45 days following the end of the quarter.

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

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98

741-060-0090

Requirements for Investigating Accidents, Security Breaches and Unacceptable Hazardous Conditions

(1) Each transit agency shall investigate accidents, security breaches and unacceptable hazardous conditions. The transit agency may use its own staff or a contractor to conduct the required investigations. The Rail Section may also perform separate, independent investigations at its own discretion.

(2) The transit agency shall be responsible for overseeing the investigations and ensuring preparation and submittal of investigation reports.

(3) Each transit agency shall submit to the Rail Section for review and approval, a final written report for all investigated reportable accidents and unacceptable hazardous conditions within 45 days after the last day of the month in which the accident occurred or the unacceptable hazardous condition was discovered. The report shall identify the causal factors contributing to the accident or unacceptable hazardous condition, and contain or reference a corrective action plan and schedule to prevent a recurrence of the accident or to mitigate the unacceptable hazardous condition. Each transit agency shall also submit a final written report of all security breaches investigated within 45 days from the end of each quarter. The written reports shall be submitted on the Oregon Department of Transportation, Rail Section, Report Form ODOT/FTA-3.

(4) Investigation reports and corrective action plans prepared by a rail transit agency and filed with the Rail Section shall not be admissible as evidence nor shall they be used in any civil action for damages based on or arising out of matters covered therein unless specifically authorized by the Rail Section.

[ED. NOTE: The form(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.045

Hist.: RS 1-1998, f. & cert. ef. 6-19-98

DIVISION 100

RAILROAD-HIGHWAY CROSSINGS — GENERAL

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 a signal mast, post or other structure.

Stat. Auth.: ORS 823 & ORS 824

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

741-100-0020

Definitions

As used in Divisions 741-100 through 741-200 and 741-600 of these rules:

(1) “Crossing” means unless the context requires otherwise, the intersection of a highway with a track or tracks of a railroad, including the area affecting or affected by said intersection.

(2) “Grade Crossing” means a crossing as defined in section (1) of this rule, where the intersection is at common grade. A grade crossing is composed of two distinct parts:

(a) Intersection — that portion of the roadway lying between lines drawn two feet outside each rail of each track at the crossing.

(b) Approach — that portion of the roadway lying within the Safe Stopping Distance (SSD).

NOTE: See section (8) of this rule

(3) “Separated Crossing” means a crossing as defined in section (1) of this rule, where the intersection is not at common grade. There are two types of separated crossings;

(a) “Overcrossing” — a separated crossing where the highway is above the railroad.

(b) “Undercrossing” — a separated crossing where the railroad is above the highway.

(4) “Highway” has the meaning given that term in ORS 824.200(1).

(5) “Roadway” means that portion of a highway composed of travel lanes, medians and driveable shoulders.

(6) “Railroad” has the meaning given that term in ORS 824.020 and 824.200.

(7) “Public authority” has the meaning given in the term “public authority in interest” in ORS 824.200.

(8) “Safe Stopping Distance” (SSD) means the estimated minimum distance, as measured along the roadway, sufficient to allow the operator of an approaching motor vehicle to observe a potential collision and to bring the vehicle to a safe stop 15 feet from the nearest rail at a railroad-highway intersection. The following table of speeds and safe stopping distances is used as a guide in crossing safety evaluations:

TABLE OF SAFE STOPPING DISTANCES (SSD)*
(SSD measured 15 feet from nearest rail)

Vehicle Approach Speed	SSD
10 mph	44 feet
15 mph	69 feet
20 mph	110 feet
25 mph	150 feet
30 mph	200 feet
35 mph	250 feet
40 mph	300 feet
45 mph	385 feet
50 mph	450 feet
55 mph	550 feet
60 mph	650 feet
65 mph	750 feet

*Source: Based on an equation from A Policy on Geometric Design of Rural Highways, American Association of State Highway and Transportation officials, 1965, pg 134-140, except for the 10 and 15 MPH distances.

(9) “Alter” means any change to roadway or tracks at a crossing which materially affects use of the crossing by railroad equipment, vehicles, or pedestrians, such as: adding or removing tracks; changing the width of the roadway; installing or removing of automatic signal devices and vehicle stop signs; creating an additional traffic lane; changing the direction of traffic flow; installing curbs, sidewalks, or bicycle paths; or changing grade, including superelevation, if sufficient to necessitate a change of the grade of the railroad or highway being crossed. Minor changes resulting from the maintenance of surface, grade, and alignment, or the replacement in kind of existing signs and signals are not alterations.

(10) “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.

NOTE: See OAR 741-120-0020 regarding maintenance of grade crossing surfaces.

(11) “Bikeway” means a roadway maintained for exclusive use of pedestrians and persons riding bicycles; such roadway is designated by official signs or markings, and completely separated from the vehicular traveled portion of the highway (Class I).

(12) “Bicycle Lanes” means:

(a) Part of a roadway maintained for exclusive use by pedestrians and persons riding bicycles, and separated from the vehicular traveled way by a barrier (Class II); or

(b) Part of a roadway maintained for exclusive use by persons riding bicycles, and separated from the vehicle traveled way only by painted lines or markings on the highway surface (Class III).

(13) "MUTCD" means Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation, Federal Highway Administration (revised 12/1979), as modified November 26, 1980, by the Oregon Transportation Commission under ORS 810.200.

(14) "Advanced signal activation time" means the period measured from the time the railroad signals start to flash until a train enters the crossing.

(15) "Guardrail" means a standard highway type guardrail (OSHD Drawing No. S-709) installed adjacent to protective devices at grade crossings.

(16) "Curbing" means vertical face curbs installed adjacent to protective devices at grade crossings.

[Publications: The publication(s) referenced to in this rule are available from the office of the agency.]

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.020 & 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

DIVISION 105

ASSIGNMENT OF IDENTIFICATION NUMBERS TO CROSSINGS

741-105-0010

Crossings to be Numbered

(1) All public crossings shall be assigned crossing numbers by the Commission.

(2) Where trackage is located in or along city streets, each street intersection shall be considered a crossing. Where streets are not through, but terminate at the street upon which the railroad is located, the intersection shall be considered a crossing. Where streets are through but are offset, they shall be considered as two crossings. However, if the distance between their centerlines is not greater than the width of the street, they shall be considered as one crossing, but the name of each street shall be reported.

(3) Where main, branch line or lead tracks are located in or along traveled city streets and spurs take off from said main, branch or lead track, such spur turnout across the street shall be reported as a separate crossing unless already reported as a portion of an intersecting street crossing.

(4) Crossings involving tracks not owned by a railroad shall be numbered. See OAR 741-105-0020(13).

(5) Separated crossings shall be numbered.

Stat. Auth.: ORS 823 & ORS 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 860-042-0005

741-105-0020

Method of Assigning Numbers

(1) The assigned crossing identification numbers shall consist of:

(a) Numerals and/or letters as hereinafter assigned indicating the railroad and branch, followed by a hyphen; and

(b) Numerals indicating the milepost designation. (For example: "2A-341.7" identifies the crossing of the public highway at milepost 341.7 of the main line of Union Pacific Railroad Company in the City of Baker).

(2) The above form of number shall be used on all crossings involving main or branch line tracks, including all secondary tracks at such crossings owned or operated by the same company. These tracks shall be grouped and identified by the main or branch line number, except:

(a) Tracks crossing the same street or highway, at a distance of two hundred feet or more from the nearest track identified by such number, shall be identified as a distinct and separate crossing and assigned an individual number; or

(b) At a multiple track crossing where train movements on certain tracks do not activate the automatic signal devices installed at one or more of the tracks, the unprotected track(s) shall be assigned a separate identification number.

(3) All track crossings of highways by other than main or branch line tracks which are to be separately numbered (see section (2) of this rule), shall be numbered in the same manner as main or branch line crossings, except that the suffix "C" shall be added (for example: "2A-341.7-C"). The mileage used shall be measured along the track from the point of contact with the main or branch line, beginning with the main or branch line mileage at point of divergence.

(4) Separated crossings shall be numbered in the same manner as grade crossings, the suffix "A" indicating an overcrossing and the suffix "B" indicating an undercrossing.

(5) In cases of separated crossings on other than main or branch line tracks, the combined suffix "AC" or "BC" shall be used as designations for such grade separation structures.

(6) Bikeways shall be numbered in the same manner as other crossings, except that the suffix "D" shall be added. Bikeway separated crossings shall be identified by the combined suffix "AD" or "BD" as applicable. Bicycle lanes will not be differentiated by a specific number.

(7) Public pedestrian walks (other than pedestrian crossings at railroad stations, and those within 25 feet from edge of roadway to nearest edge of pedestrian walk, of a vehicle crossing) shall be numbered in the same manner as other crossings, except that the suffix "E" shall be added. Pedestrian separated crossings shall be identified by the combined suffix "AE" or "BE" as applicable.

(8) Alleys shall be numbered in the same manner as other crossings, except that the suffix "F" shall be used. Alley separated crossings shall be identified by the combined suffix "AF" or "BF" as applicable.

(9) Numbers and letters used to identify the several railroads and branches within the state are as shown in Figure 1.

(10) All milepost designations shall be carried to the nearest tenth of a mile. However, where crossings are close together and confusion may result, the numbers shall be carried to the nearest hundredth of a mile.

(11) Except where necessary to avoid use of multiple ownership designations on a continuous line (see Figure 1, footnote number 8 for example), crossings on jointly used tracks shall be assigned to the owning railroad. Where ownership is joint the number shall be assigned to the operating railroad. In those cases where ownership is joint and the line is operated by two or more railroads, numbers shall be consistently assigned to one designated railroad.

(12) Mileage used shall be consistent with milepost numbers installed on the line. If no mileposts are actually installed on the line, mileage then shall be computed from the principal terminal station of the railroad.

(13) Crossing involving tracks not owned by a railroad shall be numbered in correspondence with the numbering system applicable to the railroad which performs switching or other service on such tracks, consistent with the provisions of section (11) of this rule.

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 823 & ORS 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 860-042-0010

741-105-0030

Display of Numbers at Crossings

After assignment of identification numbers, and notice thereof to the carriers, each carrier shall paint or otherwise place on the crossing signpost, warning device or other structure at each crossing of its track, such identification numbers. Such number shall be of sufficient size as to be readily legible and shall thereafter be maintained in a legible condition. In all matters pertaining to any crossing brought to the attention of the Oregon Department of Transportation, reference shall be made to the assigned number. A recommended form of marking is shown in Figure 2. New crossings shall be so marked within 60 days after the crossing is placed in service. Existing crossings, having been redesignated, shall be so marked within 12 months of notice of redesignation.

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 823 & ORS 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 860-042-0015

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 741-115-0060 provide uniform standards for the location and type of protective devices to be installed and maintained at grade crossings to provide greater safety for the traveling public.

Stat. Auth.: ORS 823 & ORS 824
 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

741-110-0020

Application of Rules to Existing Protective Devices

(1) Protective devices first installed on or after the effective date of these rules shall comply with PUC Order No. 83-143.

(2) Except as required by OAR 741-110-0050(8), protective devices installed at grade crossings before the effective date of these rules, in compliance with the rules and regulations of the Public Utility Commission in effect at the time of installation, are deemed to be in compliance with PUC Order No. 83-143.

Stat. Auth.: ORS 823 & ORS 824
 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

741-110-0030

Standard Protective Devices

(1)(a) The devices hereinafter described are declared to be standard protective devices and should be known by that description. **Figures 1 through 13 and Figure 1**, Division 115, are deemed to be a part of these rules.

(b) The devices are generally similar in size, type and design to those shown or described in MUTCD, including all additions thereto and revisions thereof made prior to March 16, 1983. Exceptions or additions to MUTCD include Standard Nos. 1T, 2P, and different specifications as set forth in these rules.

(2) Passive Devices:

(a) Standard No. 1 (**Figure 1**) (Crossbuck) is a fixed sign. It shall consist of two blades, each at least four feet in length, intersecting at an angle of 90 degrees bearing the words "**RAILROAD CROSSING**" in black letters back-grounded by white reflective material. Each blade shall convey the same message on each side (front and back) of the erected crossbuck, or the back side shall be equipped with white reflective material not less than four inches in width, sufficient to convey a clear image to motorists at night.

(b) Standard No. 1S (**Figure 2**) (Vehicle STOP Sign) is a fixed sign which shall conform to Section 2B-4 "Stop Sign" (R1-1) as shown in the MUTCD.

(c) Standard No. 1T (**Figure 3**) (Railroad STOP Sign) is a fixed rectangular sign which shall bear the word "**STOP**" in reflective white letters back-grounded by red reflective material, or in black letters back-grounded by reflective white material.

(d) Standard No. 1M (**Figure 4**) (Multiple Track Sign) is an inverted T-Shaped fixed sign which shall bear the words "**TRACKS**" on the lower portion and a number in black letters back-grounded by white reflective material, corresponding to the number of tracks at the crossing on the upper portion.

(e) Stop Clearance Line (**Figure 10a**) is a reflectorized white line two feet in width which shall be applied directly to a paved roadway surface.

(3) Active Devices at Railroad-Highway Intersection:

(a) Standard No. 2 (**Figure 5**) (Flashing Light Signal) is a signal which shall sound a gong and alternately flash two horizontally mounted red lights in both directions along the highway, so as to provide

a warning of an impending railroad movement. A Standard No. 1 (with or without white reflective material on the back), is mounted on the signal mast above the flashing light assembly. For additional specifications for Standard No. 2, refer to subsections (e), (f), (g), (h), (i), and (j) of this section.

(b) Standard No. 2B (**Figure 6**) (Cantilevered Flashing Light Signal) is a signal similar to Standard No. 2 as to signal action and design, but shall also include one or more sets of flashing lights mounted over the roadway on an arm in addition to those installed beside the roadway. For additional specifications on Standard No. 2B, refer to subsections (e), (f), (g), (h), (i), and (j) of this section.

(c) Standard No. 2P (**Figure 7**) (Pedestrian/ Bikeway Flashing Light Signal) is a signal which shall sound a gong and alternately flash two vertically mounted red lights in both directions along the pedestrian/bikeway so as to provide warning of an impending railroad movement. A Standard No. 1 (with or without white reflective material on the back) shall be mounted on the signal mast between the two vertically mounted flashing lights. For additional specifications on Standard No. 2P, refer to subsection (e), (f), (g), (h), (i), and (j) of this section.

(d)(A) Standard No. 4 (**Figure 8**) (Automatic Gate Signal) is a moveable barrier (gate) used in conjunction with Standard No. 2 or 2B. The gate mechanism shall be mounted on the signal mast or on a pedestal located adjacent thereto. When activated, the gate shall be lowered to form a horizontal barrier between approaching vehicles and the track.

(B) The gate shall normally be installed perpendicular to the roadway centerline and shall be equipped with a steadily burning red light near the end of the gate and two or more flashing red lights on top of the extended arm so as to provide additional warning in both directions on the highway of an impending railroad movement. For additional specifications for Standard No. 4, refer to subsections (f) and (i) of this section.

(e) All installation of Standard Nos. 2, 2B and 2P activated signals shall be equipped with a gong on each signal which shall operate continuously during the activation of the flashing lights. When these signals are accompanied by a Standard No. 4 automatic gate, the gong may cease operation when the gate is fully lowered.

(f) All installations of Standard Nos. 2, 2B, 2P, and gate arm lights on Standard Nos. 4s shall operate at a voltage of not less than 9.5 volts at the light, except not less than 9 volts at the light when the signal initially reverts to standby power, using a minimum 10 watt, 25 watt lamp (or equivalent), unless otherwise authorized.

(g) Light units on Standard Nos. 2, 2B and 2P 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.

(h) All installations of Standard Nos. 2, 2B, 2P, and 4 shall be equipped with 12-inch diameter light units.

(i) Lights on Standard Nos. 2, 2B and 2P shall flash alternately at a rate of 45 to 65 times per minute.

(j) Unless otherwise specified, recommended specifications for 12-inch diameter roundels (lenses) on Standard Nos. 2, 2B and 2P 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.

(D) Roundels with long-range capability may be used in appropriate locations.

(E) Color of roundels shall have a "Y" chromaticity coordinate value not to exceed 330.

(k) Traffic Signal Interconnection. Interconnection of traffic signals at an adjacent high-way intersection with protective devices at a crossing normally shall provide for a preemption phase for the traffic signals on the approach of a train to the crossing. The preemption phase shall operate in a manner which will expedite vehicle movement off the track area and will prevent additional vehicles from entering the track area at the crossing. This is normally accomplished by providing a clear-out phase for vehicles waiting on the

track and, in some cases, a special **“STOP HERE ON RED”** signal to keep additional vehicles from entering the track area. In addition, part-time turn restriction signals shall be installed as ordered to prevent vehicles from turning right or left from the highway intersection into the track area. (See Rule 741-115-0040).

NOTE: At locations where a highway intersection controlled by traffic signals is located within 200 feet of a railroad-highway intersection protected with active devices, interconnection between the traffic signals and the grade crossing protective devices is normally desirable.

(4) Auxiliary Devices. The Department may authorize the installation of auxiliary signs and/or signals at a crossing. Such devices shall be installed so as not to obscure other crossing protective devices installed at the crossing. Auxiliary devices are not necessarily limited to those described below:

(a) Exempt Sign (**Figure 9a**) is a sign which shall conform to R15-3 **“EXEMPT”** Sign, in MUTCD.

(b) Advance Exempt Sign (**Figure 9b**) is a sign which shall conform to W10-1a **“EXEMPT”** Sign, in MUTCD.

(c) Part-time Turn Restriction Signals (**Figure 9c**) are signals designed to prevent vehicles from turning across the railroad from a roadway intersection adjacent to a crossing.

NOTE: These signals are usually installed in conjunction with and interconnected to automatic protective devices.

(d) **“DO NOT STOP ON TRACKS”** sign (**Figure 9d**) is a sign which shall conform to Section 8B-8 **“DO NOT STOP ON TRACKS”** sign (R8-8) in MUTCD which may be installed at certain crossings where the potential for vehicles stopping on the track is high.

(5) Advance Warning Devices:

(a) Advance Warning Sign (**Figure 10b**) is:

(A) A fixed sign which shall conform to Section 8B-3 **“Railroad Advance Warning Sign”** (W10-1) in MUTCD; or

(B) A bikeway **“Railroad Advance Warning Sign,”** (W10-1) 18 inches in diameter, which shall conform to Section 9B-18 in MUTCD.

(b) Stop Ahead Sign (**Figure 10d**) is a fixed sign (W3-1 or W3-1a) which shall conform to Section 2C-15 of MUTCD.

(c) Advance Warning Pavement Markings (**Figure 10c**) are signs in white reflective material which shall consist of an **“X,”** the letters **“RR”** and two transverse lines on each travel lane approach to a crossing intersection.

NOTE: A yellow **“NO PASSING”** marking normally should be installed in conjunction with this sign on a two-lane, two-way road.

(d) Train-Activated Advance Warning Signal. (**Figure 11**) is a signal which shall alternately flash two yellow lights along the highway in advance of a crossing, so as to provide advance warning of an impending railroad movement. A sign reading **“PREPARE TO STOP WHEN LIGHTS FLASH”** shall be mounted directly beneath the lights.

(6) Guardrail is a standard highway type guardrail which shall be installed in conjunction with active devices.

(7) Curbing (**Figure 12**) is a curb which shall have a vertical face not less than seven inches in height above the surface of the adjacent roadway and which shall be constructed as depicted in **Figure 12**.

NOTE: Refer also to rule 741-110-0090.

[ED. NOTE: The Figures referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 823 & ORS 824

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

741-110-0040

Location of Protective Devices

(1) In no case shall protective devices be located so that a motorist's visibility of any other protective device at the crossing will be obstructed. Specific directions for location may be modified by prior written consent of the Department.

NOTE: Example of standard location plans for signals is depicted in Figure 13.

(2) Unless otherwise specified herein, passive protective devices shall be located to the right of approaching vehicles; and six

feet from edge of roadway to nearest edge of the sign, or two feet behind face of curb to nearest edge of the sign.

(3) Standard Nos. 1, 1S, 2, 2B, 4, advance warning signs and **“STOP AHEAD”** signs, shall be located in advance of the railroad-highway intersection and to the right of approaching vehicles; on one-way roadways said devices shall be located on both sides of the highway in advance of the railroad-highway intersection.

(4) Standard No. 2P shall be located at the side of the roadway in advance of the railroad-highway intersection and to the right of approaching pedestrians and/or bicyclists. Said signals shall be located not less than 4 feet 1 inch behind face of curb or not less than 6 feet from edge of roadway.

(5) Standard No. 1 shall be affixed to its own post and shall be located as depicted in **Figure 1**.

(6) Standard No. 1S shall be affixed to its own post and shall be located as depicted in **Figure 2**.

(7) Standard Nos. 2, 2B, and 4 shall be located as close to the nearest rail as is safe and practical, but not closer than 12 feet if the road is curbed and 15 feet if the road is not curbed, from the centerline of the signal foundation to the centerline of the nearest track. **Figure 13** illustrates the standard location plan for signal placement at right, acute and obtuse angle crossings. Said devices shall be located not less than six feet nor more than seven feet from the outside edge of the shoulder or not less than four feet one inch nor more than five feet from the face of the curb. No part of the cantilevered signal lights or the structure which supports them shall be less than 17 feet directly above the crown of the highway.

(8) Standard No. 1M (**Figure 4**) shall be affixed to Standard Nos. 1, 2, or 2B as depicted in **Figures 4, 5, and 6**, respectively.

(9) Standard No. 1T (**Figure 3**) shall be located adjacent to the track on which the stopping requirement applies. The sign shall be located not closer than six feet nor further than 25 feet from the nearest edge of the roadway.

(10) The stop clearance line described in OAR 741-110-0030(2)(e) and **Figure 10a** shall be located perpendicular to the roadway centerline and not less than twelve feet from the nearest rail. Where automatic gates are installed, the line shall be located one foot in advance of where the gate arm crosses the roadway surface.

(11) Advance warning signs and advance warning pavement markings shall be located, where practical, at the safe stopping distance as defined in OAR 741-100-0020(8) and depicted in **Figure 10b**, but generally not less than 100 feet from the nearest track. Advance warning pavement markings shall be located, where practical, so that the transverse line nearest to the railroad-highway intersection is approximately adjacent to the advance warning sign, as depicted in **Figure 10a**.

(12) **“STOP AHEAD”** signs and train-activated advance warning signals shall be located not less than 100 feet in advance of the advance warning sign. See **Figures 10d and 11**.

(13) 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 ten feet from the centerline of the nearest track.

(14) Curbs shall be located on the outside edge of the roadway. Active protective devices shall be located no closer than 4 feet 1 inch behind face of curb. See **Figure 12**.

(15) Location of Auxiliary Devices:

(a) When authorized in writing by the Department, the **“EXEMPT”** sign shall be affixed to a Standard No. 1 crossbuck as depicted in **Figure 9a**.

NOTE: This sign is to be installed at crossings which are exempt from the special stopping requirements of ORS 811.460, by authority of ORS 811.465.

(b) When authorized in writing by the Department, the advance **“EXEMPT”** sign shall be affixed to a standard advance warning sign as depicted in **Figure 9b**. This sign is to be installed at crossings which are exempt from the special stopping requirements of ORS 811.460, under ORS 811.220.

(c) The **“DO NOT STOP ON TRACKS”** sign shall be affixed to its own post at an appropriate location in advance of and close to the railroad-highway intersection or to a Standard No. 2B device at a crossing adjacent to a traffic intersection with intervening reservoir

space of less than 200 feet. If it is to be installed upon a Standard No. 2B device, the public authority shall provide the sign, and all replacements, and the railroad shall install and maintain them at its own expense.

(16) Overhead Mounting of Signs. At the option of the public authority with jurisdiction over the roadway, or by order of the Department, signs may be installed directly over a lane of traffic on the roadway. Said installation shall be by suspension from a span wire or by attachment to a fixed structure.

[ED. NOTE: The Figures referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 823 & ORS 824

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

741-110-0050

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

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

(1) Standard Nos. 1 and 1M may be installed by the railroad.

(2) Standard No. 1S vehicle “STOP” signs may be installed by the public authority upon written approval of the Department after written request therefor by the public authority in interest.

(3) Standard No. 1T railroad “STOP” signs may be installed by the railroad upon written approval of the Department after written request therefor by the railroad.

(4) Advance warning signs, “STOP AHEAD” signs, advance warning pavement markings, and stop clearance lines may be installed by the public authority.

(5) Standard highway-type guardrails and curbs may be installed in conjunction with existing installations of Standard Nos. 2, 2B, 4 and “wigwag” signals by the public authority. Written notice of such installation shall be provided to the Department.

(6) “Wigwag” signals may be replaced with two Standard No. 2 flashing light signals, upon written approval of the Department by the railroad after written request therefor by the railroad.

(7) Additional flashing light units may be installed on existing installations of Standard Nos. 2 and 2B by the railroad.

(8) Worn out or destroyed protective devices may be replaced by the same type of device; however, the replacement shall meet the standards of PUC Order No. 83-143.

(9) Auxiliary devices, as described in OAR 741-110-0030(4) may be installed upon written approval of the Department.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.202

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

741-110-0060

Required Installation of Specified Protective Devices

The following protective devices shall be installed at the grade crossings described below. Installation dates for each shall be set by separate order:

(1) Standard No. 1. Unless otherwise authorized in writing by the Department, two Standard No. 1 reflectorized crossbucks shall be installed at each grade crossing not equipped with standard active protective devices, except where the installation of a Standard No. 1 device would create a hazard that would not otherwise exist.

(2) Standard No. 1T. Unless otherwise authorized in writing by the Department, one Standard No. 1T device shall be installed, where physical circumstances permit, on each track approach to each crossing intersection equipped with Standard Nos. 2, 2B or “wigwag” devices when the minimum signal activation requirement of OAR 741-110-0070(1) cannot be met.

(3) Standard No. 1M. Two Standard No. 1M devices shall be installed at each grade crossing consisting of two or more tracks.

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

(5) Advance Warning Signs. Unless otherwise authorized in writing by the Department, two advance warning signs shall be installed in advance of each grade crossing. See OAR 741-110-0030(5) and 741-110-0040(10).

(6) Advance Warning Pavement Markings. Unless otherwise authorized in writing by the Department, advance warning pavement markings shall be installed on each paved vehicle approach lane to each grade crossing.

(7) Protective Guardrail or Curbing. Unless authorized in writing by the Department, standard highway-type guardrail or curbing, as appropriate, shall be installed at each crossing equipped with active protective devices.

Stat. Auth.: ORS 823 & ORS 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 860-042-0080

741-110-0070

Operation of Active Devices

(1) Advance Activation of Devices. Unless otherwise ordered by the Department, Standard Nos. 2, 2B, 2P, and 4 protective devices and “wigwag” devices 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. See OAR 741-100-0020(14). Prolonged signal operation shall be avoided by reasonable operating and engineering practices.

(2) Cessation of Operation. The warning aspect of Standard Nos. 2, 2B, 2P and 4 protective devices and “wigwag” devices 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) “Fail-Safe” Operation. Standard Nos. 2, 2B, 2P and 4 protective devices, unless manually activated shall be:

(a) Equipped with a source of standby power which will be activated automatically upon failure of the primary power source, so as to cause the device to continue to function normally; and

(b) Designed so that any failure or malfunction of the circuits and controls, other than a loss of all power, shall cause, so far as possible, constant actuation, except that Standard No. 4 automatic gates shall lower to a down position and remain down even in the case of loss of all power.

Stat. Auth.: ORS 823 & ORS 824

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 860-042-0090

741-110-0080

Observance of Railroad Stop Signs

When Standard No. 1T is installed, traffic on the railroad shall stop prior to entering the roadway and proceed when safe to do so, but not before gate arms have fully lowered, or (in the case of a non-gated crossing) 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 823 & ORS 824

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

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)(g). 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.

NOTE: Curbing is in compliance with these rules if a vertical face of not less than six inches in height above the surface of the adjacent roadway is maintained subsequent to initial construction.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.204 & 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 860-042-0105

DIVISION 115

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

741-115-0010

Definitions

(1) AAR Units. AAR units means units defined in the Association of **American Railroads Signal Manual** (Rev. 1990).

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

(3) "Eligible Railroad." Eligible railroad means a railroad as defined in ORS 824.020 which bears the costs of maintaining one or more active protective devices at railroad-highway 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: The publication(s) referenced to in this rule are available from the office of the agency.]

Stat. Auth.: ORS 823 & ORS 824

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

741-115-0020

Procedure for Allocation of Monies

(1) Apportionment Factors. Apportionment factors to allocate funds from the Grade Crossing Protection Account to defray the costs of maintaining active protective devices at railroad-highway grade crossings, pursuant to ORS 824.018, shall be based on units as follows:

(a) Apportionment Units. Except as provided in subsection (b), reimbursement for a portion of the costs of maintaining active protective devices at railroad-highway grade crossings shall be apportioned based on Association of American Railroads' railroad signal units (AAR units). The calculation for reimbursement to each eligible railroad shall be apportioned based upon total AAR units maintained by the railroad divided by the total AAR units reported for all railroads that maintain active protective devices at railroad-highway grade crossings in the state.

(b) Interim Apportionment Units. Until such time as the Department provides written notice of intent to use AAR units as a means of apportioning funds to all eligible railroads, reimbursement for a portion of the costs of maintaining active protective devices at railroad-highway grade crossings shall be apportioned based on ODOT signal units as follows: wigwag 5 units, flashing lights without gates 5 units, traffic signals 5 units, cantilevered flashing lights without gates 6 units, flashing lights with gates 7 units, and cantilevered flashing lights with gates 8 units. The calculation for reimbursement to each eligible railroad shall be apportioned based on total ODOT signal units maintained by the railroad divided by the total ODOT signal units reported for all railroads that maintain active protective devices at railroad-highway grade crossings in this 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 railroad-highway 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 \$20,000 for the calendar year 1991, \$40,000 for 1992, \$60,000 for 1993, \$80,000 for 1994, and \$100,000 for 1995 and each calendar year thereafter.

Stat. Auth.: ORS 823 & ORS 824

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

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 grade crossing is as follows: At interconnections where responsibility is shared between the railroad and the public authority, the railroad shall install and maintain the circuitry located on the track and inside the railroad signal case. The railroad shall provide appropriate electrical contracts to the public authority. The public authority shall install and maintain all other signs, signals and circuitry located outside the railroad signal case to assure proper operation of the subject device. See **Table 1**.

[ED. NOTE: The Table referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.200 & ORS 824.202

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

741-115-0040

Special Requirements for Traffic Signal Interconnection

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

(a) Install a notice in the traffic signal cabinet which reads as follows: **"IN CASE OF FAILURE OF RAILROAD PREEMPTION FEATURE WHICH CANNOT BE REPAIRED WITHIN 30 MINUTES, CALL THE RAILROAD DISPATCHER AT (telephone number) AND NOTIFY HIM OF THE PROBLEM AND EXPECTED DURATION. ALSO NOTIFY DISPATCHER WHEN REPAIRS ARE COMPLETED."**

(b) On or before January 1, 1986, install a **"DO NOT STOP ON TRACK"** sign (see Figure 9d, Division 110) capable of holding three flags (see Figure 9e, Division 110).

(c) When the railroad preemption feature fails and cannot be repaired within 30 minutes, install flags on **"DO NOT STOP ON TRACK"** signs 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 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: The Figures referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 823 & ORS 824

Stats. 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

741-115-0050

Experimental Devices

The Department anticipates new active or passive devices may become available as the state of the art improves. 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 Oregon Department of Transportation and/or railroad and the Department.

Stat. Auth.: ORS 823 & ORS 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 860-042-0117

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 unprotective devices.

(2) As part of the stop sign, the railroad shall 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 example, **Figure 1**). 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: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 823 & ORS 824

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

DIVISION 120

MAINTENANCE, CONSTRUCTION AND CLOSURE OF CROSSINGS

741-120-0010

Responsibility for Maintenance of Grade Crossings

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 two feet outside each rail of each track at the crossing, and the public authority with jurisdiction over the roadway at the crossing is responsible for maintaining the remaining portion of the highway at the crossing. 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 823 & ORS 824

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

741-120-0020

Grade Crossing Construction and Maintenance

(1) All new or altered grade crossings shall be constructed to conform to or exceed nationally recognized and commonly used construction standards. The width of the roadway at the crossing shall be sufficient to allow for the safe, unimpeded flow of vehicle traffic, including bicycles, in the same volume as on the roadway approaches to the grade crossing. Where pedestrian traffic is permitted, a safe walkway shall also be provided. 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 six inches lower than the top of the nearest rail at a point thirty feet from the rail, measured at right angles thereto.

(2) 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.

(3) The railroad shall notify the public authority with jurisdiction over the roadway at least two weeks in advance of the date it intends to raise or lower the elevation of one or more tracks at the crossing. The public authority with jurisdiction over the roadway shall notify the railroad at least two weeks in advance of the date it intends to raise or lower the elevation of its roadway on the roadway approach to the crossing.

(4) Upon notification by the Department of a condition which does not conform to the requirements of sections (1) or (2) of this rule, the railroad, within 30 days of such notification, unless any party requests a hearing, shall bring its portion of the crossing surface into compliance with the provisions of this rule, unless a time extension is granted in writing by the Department.

NOTE: See rule 741-120-0010.

Stat. Auth.: ORS 823 & ORS 824

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

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. The width of the traveled roadway at a separated crossing shall be sufficient to allow for the safe and unimpeded flow of vehicle traffic in the same volume as on the roadway approaches to the separated crossing. Where pedestrian traffic is permitted, a safe walkway shall be provided. Upon substantial repair or reconstruction of an existing structure, such alterations shall bring the structure into compliance with these rules.

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

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.210 & 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 860-042-0225

741-120-0040

Authority for Closure of Crossings and Removal of Tracks at Crossings

(1) Permanent Closure of Roadway at Crossing. Whenever a crossing is permanently closed to motor vehicle, bicycle or pedestrian traffic, the public authority with jurisdiction over the roadway at the crossing shall notify the Department of the closure. No further authority from the Department is required, but compliance with OAR 741-120-0050 is required. 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 Crossing by the Railroad. When a railroad desires to close a railroad-highway crossing temporarily, it shall comply with all reasonable procedures required by the public authority with jurisdiction over the roadway. At a minimum, the railroad shall provide to the public authority at least 40 hours advance notification of intent to close the crossing.

(3) Termination of Railroad Operations at Crossing. Whenever railroad use of a crossing is to be discontinued entirely, the owner of the track at the crossing and the railroad operating over such track shall notify the Department of the discontinuance. No further authority from the Department is required, but compliance with OAR 741-120-0050 is required. After such termination, railroad service may not be restored without the Department's authority.

(4) Removal of Trackage at Crossings. Whenever one or more tracks is to be removed at a grade crossing, or railroad use of one or more tracks at a grade crossing is to be discontinued, the railroad operating over such trackage shall notify the Department of the removal and/or discontinuance. When an active protective device must be relocated to adequately protect the crossing subsequent to such track removal, the railroad shall relocate the device. Compliance with OAR 741-120-0050(3) is required. Standard guardrail or curbing shall be provided. No further authority is required.

Stat. Auth.: ORS 823 & ORS 824

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

741-120-0050

Permanent Closure and Removal of Grade Crossings

(1) Construction of Barricades. Whenever a grade crossing is closed to use by motor vehicles, a barricade or other appropriate obstruction sufficient to prevent use of the crossing by motor vehicles shall be installed and maintained in good condition on each roadway approach to the crossing. Barricade width shall be a minimum of the width of the roadway, see OAR 741-100-0020(5) and MUTCD Type III barricade. Barricades, where used, shall be installed and maintained by the public authority. The cost of con-

struction 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 motor vehicles, the railroad, after installation of required barricades, shall promptly remove all roadway surface material from the area between lines drawn two feet outside the outermost rails at the crossing.

(3) Removal of Railroad Tracks. Unless the parties agree otherwise, whenever a grade crossing, or one or more tracks thereat, is closed to use by railroad equipment, the tracks (including rails and ties) shall be removed and the roadway surface 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 motor vehicles or by railroad equipment, protective devices shall be promptly removed by the party responsible for their maintenance.

Stat. Auth.: ORS 823 & ORS 824

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

DIVISION 125

CROSSING BLOCKAGE

741-125-0010

Blockage of Public Grade Crossings

(1) Except as provided in sections (2) and (3) of this rule, no railroad shall cause a public grade crossing to be blocked by railroad equipment:

(a) During the hours of 6 a.m. to 10 p.m., in excess of ten continuous minutes from the time the first roadway user is blocked at the crossing; or

(b)(A) During the hours of 10 p.m. to 6 a.m., in excess of fifteen continuous minutes from the time the first roadway user is blocked at the crossing.

(B) Each period of crossing blockage shall be followed by an interval of time sufficient to allow the passage of waiting traffic.

(2) The limitations set forth in section (1) of this rule do not apply to:

(a) Any train continuously moving in the same direction during the entire time it occupies the crossing;

(b) Any instance where no vehicular or pedestrian traffic is waiting to cross the tracks at the crossing; or

(c) Blockage caused by:

(A) Wrecks, derailments, acts of nature, or other emergency conditions not under control of the railroad.

(B) Emergency operational procedures required by federal law.

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

(4) To facilitate clearing a crossing for use by emergency vehicles, each railroad shall provide to each emergency response agency (as defined in OAR 741-510-0010) through the jurisdiction of which it operates, written notice of the railroad official to be notified and the procedure to be followed to clear a crossing for emergency vehicles. Such notice shall be provided on or before March 1 of each year, except that additional immediate written notice shall be provided in the event of any change in designation of official or procedure to be followed.

(5) The railroad shall coordinate road closures and reopenings with the public authority during blockages.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.222

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 860-042-0310

741-125-0020

Sounding of the Train Whistle at Grade Crossings

(1) The sounding of the locomotive whistle in advance of railroad-highway grade crossing equipped with operating automatic gates, flashing lights, and audible protective devices, conforming to applicable Department's standards, is not required, unless specifically ordered by the Department.

(2) Upon petition of a public authority or a railroad, or on its own motion, the Department may enter an Order, after hearing if necessary, prohibiting the sounding of the locomotive whistle in advance of specified railroad-highway grade crossings equipped with automatic gates, flashing lights, and audible protective devices.

(3) When an order prohibiting the sounding of the locomotive whistle in advance of certain railroad-highway grade crossings has been entered by the Department or the Public Utility Commission, the railroad shall provide written notification of its employees of the prohibition and shall install appropriate signing adjacent to its tracks to clearly designate the segment or segments of line to which the whistle-sounding prohibition applies.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.208

Hist.: PUC 15-1983, f. & ef. 12-5-83 (Order No. 83-770); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0330

DIVISION 200

APPLICATIONS

741-200-0010

Purpose

OAR 741-200-0020 to 741-200-0070 provide procedures for making applications for authority to construct, relocate, alter or close crossing.

Stat. Auth.: ORS 823 & ORS 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

741-200-0020

Applications Required

Except where formal proceedings are initiated by 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 roadway across one or more railroad tracks at grade;

(2) Construct or relocate one or more railroad tracks across a roadway at grade; or

(3) Construct, relocate or alter a separated crossing.

NOTE: See definition of "alter" in OAR 741-100-0020(9).

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.204, ORS 824.206 & ORS 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

741-200-0030

Persons Who May Make Application

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

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.204, ORS 824.206 & ORS 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 860-043-0025

741-200-0040

Form of Applications

(1) Applications shall be filed on forms approved by the Department. An application may be rejected if it is not complete.

(2) An original and six complete copies of the application and attachments thereto must be forwarded to the Department's office.

Stat. Auth.: ORS 823 & ORS 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 860-043-0040

741-200-0050**Information to Accompany Application**

Unless exceptions have been authorized pursuant to OAR 741-200-0060, each application shall be accompanied by:

(1) Vicinity Map. A map, drawn to scale, showing in detail the vicinity of the crossing for a distance of at least 500 feet on each side of the railroad-highway intersection, both along the roadway and the railroad. Unless otherwise approved by Department's staff, the vicinity map shall be drawn to a scale of not less than 1 inch = 50 feet. Such vicinity map shall show:

(a) Railroad survey stations along the centerlines of railroad tracks, and railroad survey stations and mileposts at the points of intersection of centerlines of railroad tracks and roadways;

(b) Highway survey stations along the centerlines of roadways, and at points of intersection of centerlines of roadways and railroad tracks;

(c) 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;

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

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

(f) The location of all utility, communication and signal poles;

(g) The location of all trees, vegetation, structures or other obstructions to vision which are between approaching vehicles and trains;

(h) The location of all signs and signals which govern the flow of rail or roadway traffic;

(i) Contour lines at five foot elevation intervals if there are significant differences in elevation;

(j) 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/or devices such as guardrails, shoulders of roadway, curbs of roadway and part-time turn restriction signals. This drawing may be shown on the vicinity map.

(3) Cost Estimates. When active protective devices are to be installed or altered, normally:

(a) The railroad shall provide a cost estimate for furnishing and installing such devices, including the circuitry involved in the project;

(b) The public authority shall provide a cost estimate for furnishing and installing curbing and/or guardrail.

(4) Diagrams of Circuitry. When active protective devices are to be installed or altered, the railroad shall provide detailed diagrams of the circuitry involved prior to installation.

(5) Profile. A profile showing to scale the grade of the roadway for a distance of 400 feet on each side of the crossing. The profile may be shown on the vicinity map.

(6) Drawings for Overcrossings. All applications to construct or alter structures carrying the roadway over railroad tracks shall include drawings showing:

(a) A cross section of the structure at right angles to the railroad or parallel to the centerline of the roadway passing through the point of intersection of the roadway and railroad, or a side elevation showing the vertical and horizontal clearances above and adjacent to the railroad tracks which will exist upon completion. Such clearances shall not be less than those prescribed in OAR 741-305-0010 through 741-305-0020 and OAR 741-310-0010 through 741-310-0050;

(b) Adjacent facilities, such as roadway approach and exit ramps, and such other information as may be necessary for the purpose of the application.

(7) Drawings for Undercrossings. All applications to construct or alter structures carrying railroad tracks over the roadway shall include drawings showing:

(a) A cross section of the structure at right angles to the roadway or parallel to the centerline of the railroad track at the point of intersection of the roadway and railroad or a side elevation showing the clearances beneath the structure which will be provided for roadway use;

(b) Adjacent facilities, such as roadway approach and exit ramps, and such other information as may be necessary for the purpose of the application.

Stat. Auth.: ORS 823 & ORS 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 860-043-0045

741-200-0060**Application Alternative**

In lieu of providing the information required in OAR 741-200-0050, an applicant may request, either orally or in writing, an alternate procedure. Upon such request, the Department's staff will arrange to meet at the site of the proposed crossing project with representatives of the railroad, the public authority in interest and any other apparent party in interest in the matter. Upon mutual agreement of the parties, any or all of the requirements of OAR 741-200-0050 may be waived.

Stat. Auth.: ORS 823 & ORS 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 860-043-0046

741-200-0070**Temporary Impairment of Clearances During Construction Period**

Applications for the construction or alteration of separated crossings which contemplate temporary impairment of prescribed clearances during construction shall contain a request for authority to impair clearances, as provided in OAR 741-300-0050.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.052

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0050

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 & ORS 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 commenced within that period or within such additional period as may have been provided by order of the Department or the Public Utility Commission. Unless otherwise specified therein, authority granted by orders entered by the Department or the Public Utility Commission prior to March 15, 1983, shall expire on January 1, 1985, unless the authorized crossing construction is substantially underway before that date, or unless an extension is granted by the Department or the Public Utility Commission.

Stat. Auth.: ORS 823 & ORS 824

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

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, ORS 184.619, ORS 823.011 & ORS 824.052

Stats. Implemented: ORS 824.050 & ORS 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.

(8) The metric to English measurement conversion in Table 1 applies to all rules contained in OAR Chapter 741, Divisions 300 through 335.

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

Stats. Implemented: ORS 824.050 & ORS 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

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, ORS 184.619, ORS 823.011 & ORS 824.052

Stats. Implemented: ORS 824.050 & ORS 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. 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, ORS 184.619, ORS 823.011 & ORS 824.052

Stats. Implemented: ORS 824.050 & ORS 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

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 necessary 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, ORS 184.619, ORS 823.011 & ORS 824.052
Stats. Implemented: ORS 824.050 & ORS 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, ORS 184.619, ORS 823.011 & ORS 824.052
Stats. Implemented: ORS 824.050 & ORS 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 6.32 meters 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 2.59 meters with its center at a point 4.26 meters above top of rail and directly over centerline of track.

NOTES:

-1- See Figures 305-1 and 305-3.

-2- For bridges and tunnels see as cross-reference NOTE "B" to OAR 741-310-0040(2).

[ED. NOTE: The Figures referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

741-305-0020

Buildings

With the exception of engine houses and car repair shops, when tracks terminate within enclosed buildings, all overhead clearances shall be at least 5.48 meters above the top of rail. In all cases where clearances of less than 6.32 meters 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.

NOTES:

-1- See Figure 305-2

-2- For overhead clearance through bridges and tunnels, see OAR 741-310-0040(2).

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

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

Except as otherwise provided, all side clearance shall be at least 2.59 meters, as measured from centerline of track.

NOTE: See Figure 305-1 and Figure 310-1

[ED. NOTE: The Figures referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

741-310-0020

Side Clearance for Curved Track

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 13 millimeters per degree of curvature above that prescribed for tangent track.

NOTES:

-1- The Department recommends that minimum side clearance for curved tracks, covered by OAR 741-310-0010 through 741-310-0050, be at least 305 millimeters greater than that prescribed for tangent track.

-2- See Figure 305-1 and Figure 310-1

[ED. NOTE: The Figures referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

741-310-0030

Platforms

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

(a) Platforms constructed 203 millimeters or less above top of rail at greatest height — 1.42 meters;

(b) Platforms constructed in excess of 203 millimeters but 1.21 meters or less above top of rail at greatest height — 2.21 meters;

(c) Platforms constructed prior to January 1, 1982, in excess of 1.21 meters but 1.37 meters or less above top of rail at greatest height — 2.43 meters.

(2) All platforms, except as described in Note “B” below, shall have a continuous regular surface extending out to a point at least 2.59 meters from centerline of track.

NOTES:

-1- See Figure 310-2.

-2- 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 (1.42 meters from centerline of track) to track side face of the upper platform. See Figure 305-1 and Figure 310-3.

-3- Platforms described in subsection (1)(a) of this rule may create a walkway condition that requires compliance with OAR 741-320-0070(1).

-4- 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: The Figures referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

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 2.43 meters as measured from centerline of track.

(2) Minimum side clearance in tunnels and through bridges may be decreased, above 4.26 meters, to the extent defined by a half-circumference of a circle having a radius of 2.43 meters with its center at a point 4.42 meters above top of rail directly over the centerline of track.

NOTES:

-1- See Figure 310-3.

-2- Section (2) of this rule does not alter the 6.32 meters 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 1.52 meters from centerline of track and level with top of rail, diagonally upward to a point 2.43 meters from centerline of track at a height 1.21 meters above top of rail.

NOTE: See Figure 310-4.

[ED. NOTE: The Figures referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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 860-044-0115; RS 2-1998, f. & cert. ef. 8-20-98

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 platforms — 2.43 meters (OAR 741-310-0040(3) applies to bracing for platform railing).

(3) Block signals on bridges and trestles — 2.43 meters.

(4) Handrails on bridges and trestles 1.21 meters high or less — 2.36 meters.

(5) Interlocking mechanisms including all devices at switches used for the control of signals or protective devices at crossings 102 millimeters high or less above top of rail — 914 millimeters from centerline of track or located adjacent to switch stand.

NOTES:

-1- Interlocking mechanisms 102 millimeters high or less above top of rail at power switches and spring switches require no minimum clearance.

-2- This section applies only to interlocking mechanisms located at or above top of rail.

(6) Signals, switch stands, and switch housings constructed 914 millimeters high or less above top of rail — 1.82 meters.

NOTES:

A. Power switches require no minimum clearance.

B. 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 — 1.90 meters;

(b) Inside engine houses — 1.65 meters;

(c) Outside engine service facilities — 1.98 meters;

(d) Oil, sand and/or water columns, used exclusively for engine servicing — 2.43 meters.

NOTES:

-1- See Figure 310-5.

-2- Poles supporting wires used to transmit electrical energy should have minimum clearance of not less than that specified by the National Electric Safety Code Installation and Maintenance of Electrical Supply and Communication Lines; Section 23, “Clearances,” approved by American National Standards Institute.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

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 — 4.57 meters;

(b) Between parallel ladder tracks or between ladder tracks and other tracks — 6.09 meters;

(c) Between tangent tracks not otherwise specified — 4.26 meters.

(2) Minimum track centers for curved track constructed prior to April 29, 1983, shall be at least 13 millimeters per degree of curvature greater than that prescribed for tangent tracks.

(3) Track centers on tracks for which 4.26 meters minimum track centers are required on tangent track shall be increased from 4.26 meters at the rate of 38 millimeters per degree of curvature.

(4) Track centers on tracks for which 4.57 meters minimum track centers are required on tangent track shall be increased from 4.57 meters at the rate of 38 millimeters per degree of curvature in excess of eight degrees.

NOTE: See Figure 315-1.

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

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 restoration;

(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, ORS 184.619, ORS 823.011 & ORS 824.056

Stats. Implemented: ORS 824.050 & ORS 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

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.

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

Stats. Implemented: ORS 824.050 & ORS 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

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 nonstandard 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, ORS 184.619, ORS 823.011 & ORS 824.056

Stats. Implemented: ORS 824.050 & ORS 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. Application forms may be obtained from the Department. 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, ORS 184.619, ORS 823.011 & ORS 824.056
 Stats. Implemented: ORS 824.050 & ORS 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

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, or railroad employees inspect and repair cars, shall be surfaced with crushed material not to exceed 38 millimeters in size or with asphalt, concrete, planking, grating or similar material.

(3) Walkways located along switching lead tracks, switches in yards and along car spotting areas shall be surfaced with crushed material not to exceed 25 millimeters 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.
NOTE: Walkways not covered by section (2) or (3) of this rule may be surfaced with crushed ballast materials.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011 & ORS 824.056
 Stats. Implemented: ORS 824.050 & ORS 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

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, ORS 184.619, ORS 823.011 & ORS 824.056
 Stats. Implemented: ORS 824.050 & ORS 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 860-044-0305; RS 2-1998, f. & cert. ef. 8-20-98

741-320-0080

Walkway Standard No. 1: Between Yards and Switches

Walkway Standard No. 1 shall be a walkway with a minimum width of at least 610 millimeters, the outside edge of which shall be no closer than 2.43 meters and no further than 6.70 meters 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.

NOTE: See Figure 320-1.
 [ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]
 Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011 & ORS 824.056

Stats. Implemented: ORS 824.050 & ORS 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

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 1.82 meters, 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.

NOTE: See Figure 320-2.
 [ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]
 Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011 & ORS 824.056
 Stats. Implemented: ORS 824.050 & ORS 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

741-320-0100

Walkway Standard No. 3: Switches

(1) Walkway Standard No. 3 shall be a walkway constructed to a minimum width of 1.82 meters, 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 38.10 meters 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 7.62 meters beyond the 3.96 meter clearance point of the switch.

(3) An additional 914 millimeters of walkway width shall extend for a minimum distance of 1.21 meters 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 914 millimeters of width shall be gradually tapered back to the 1.82 meter minimum width in a distance of not less than 6.09 meters.

NOTE: See Figure 320-3.
 [ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]
 Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011 & ORS 824.056
 Stats. Implemented: ORS 824.050 & ORS 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

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 6.09 meters toward the switch and 3.04 meters away from the switch. At derails operated by a switch stand, an additional 914 millimeters of walkway width shall extend for a minimum distance of 1.21 meters in each direction from the switchstand, and only on the switchstand side of the track. This addition-

al 914 millimeters of width shall be gradually tapered back to the 1.82 meter minimum width in a distance of not less than 6.09 meters in the direction toward the switch and not less than 3.04 meters in the direction away from the switch.

(2) Derails located within 60.96 meters 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.

NOTE: See Figure 320-4.

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

741-320-0120

Access Walkways

(1) Walkways shall be constructed and maintained to provide access between tracks in yards wherever adjacent tracks are 6.09 meters or less apart, as measured from centerline to centerline. Such walkways shall be at least 610 millimeters 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 610 millimeters 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 610 millimeters shall be constructed and maintained when and where determined necessary by the Department.

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

Stats. Implemented: ORS 824.050 & ORS 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

741-320-0130

Walkways on Structures

(1) A walkway on a structure shall have a minimum width of 610 millimeters, the outside edge of which shall be no closer than 2.36 meters 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.

(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.

NOTE: See Figure 320-5.

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

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, ORS 184.619, ORS 823.011 & ORS 824.056

Stats. Implemented: ORS 824.050 & ORS 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 with a minimum height of 1.01 meters above the walkway surface. The handrail shall be located at the outside edge of the walkway.

NOTE: See Figure 320-5.

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

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 2.13 meters as measured from the outside edge of rail.

NOTE: See OAR 741-315-0010(3).

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

Stats. Implemented: ORS 824.050 & ORS 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

741-320-0170

Walkways for Trackside 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, ORS 184.619, ORS 823.011 & ORS 824.056

Stats. Implemented: ORS 824.050 & ORS 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, ORS 184.619 & ORS 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 406 millimeters vertically by 508 millimeters 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 76 millimeters 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 25 millimeters high. Unless authorized by the Department, these signs shall be illuminated during hours of darkness.

NOTES:

-1- See Figure 330-1.

-2- In cases where clearance impairments do not extend more than 610 millimeters above top of rail, the Department may order "IMPAIRED WALKWAY" signs as described in OAR 741-330-0020.

(2) Operation restriction signs shall be at least 406 millimeters vertically by 508 millimeters horizontally and shall bear the word "STOP" in black letters not less than 76 millimeters 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 38 millimeters 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 25 millimeters high on a white reflectorized background. These signs shall be illuminated during hours of darkness.

NOTE: See Figure 330-2.

(3) Stop signs shall be at least millimeters vertically by 610 millimeters horizontally and shall bear the word "STOP" in white letters at least 203 millimeters high on a red reflectorized background. These signs shall be illuminated during hours of darkness.

NOTE: See Figure 330-3.

[ED. NOTE: The Figures referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

741-330-0020

Impaired Walkway/Nonstandard Walkway Warning Signs

Signs to warn railroad employees of walkways different than those prescribed in these rules shall be at least 406 millimeters vertically by 508 millimeters 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 76 millimeters 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 25 millimeters high. Unless authorized by the Department, these signs shall be illuminated during hours of darkness.

NOTE: See Figure 330-4.

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

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

Stats. Implemented: ORS 824.050 & ORS 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

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 1.37 meters, and no more than 2.43 meters 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 2.13 meters above the top of ground.

(2) Signs shall be located at least 2.59 meters and no farther than 4.57 meters from centerline of track.

(3) Signs, other than a standard operation restriction sign, shall be located in advance of the impairment, but no closer than 30.48 meters.

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

Stats. Implemented: ORS 824.050 & ORS 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

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, ORS 184.619 & ORS 823.011

Stats. Implemented: ORS 824.050 & ORS 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 shall apply to each railroad operating locomotives and/or cabooses in this state.

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

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(104).

(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, ORS 184.619, ORS 823.011 & ORS 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 860-044-0505; RS 2-1998, f. & cert. ef. 8-20-98

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, ORS 184.619, ORS 823.011 & ORS 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 locomotives and cabooses used exclusively in yards or in transfer service where railroad provided and maintained stationary toilet facilities are available to railroad employees and notice of such facilities is provided to employees.

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

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 152 millimeters shall be smooth, cleanable and of a nonabsorbent material.

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

741-335-0060

Locomotive Sanitation Facilities

Each locomotive which employees are required to occupy shall have a toilet in an enclosed area entered by way of a solid door, or a door with nontransparent windows, with inside lighting, and latchable from the inside. Such facilities must be provided on each locomotive that an employee is required to occupy during a tour of duty.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011 & ORS 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 860-044-05320; RS 2-1998, f. & cert. ef. 8-20-98

741-335-0070

Toilet Construction

All toilets on locomotives and 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, ORS 184.619, ORS 823.011 & ORS 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

741-335-0080

Toilet Room Ventilation

Toilet rooms on locomotives and cabooses shall be ventilated. If not practical to ventilate by windows, ventilation shall be provided by some other means.

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

741-335-0090

Chemical Container Construction

No chemical container shall be installed in a toilet on locomotives or 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, ORS 184.619, ORS 823.011 & ORS 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

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, ORS 184.619, ORS 823.011 & ORS 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 and locomotives 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 locomotives 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, ORS 184.619, ORS 823.011 & ORS 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

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, ORS 184.619, ORS 823.011 & ORS 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, ORS 184.619, ORS 823.011 & ORS 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, ORS 184.619, ORS 823.011 & ORS 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, ORS 184.619, ORS 823.011 & ORS 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, ORS 184.619, ORS 823.011 & ORS 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, ORS 184.619, ORS 823.011 & ORS 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, ORS 184.619 & ORS 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 87-039
Burlington Northern	RC-59 RC-78	85-1214 86-764

Stat. Auth.: ORS 183, ORS 756 & ORS 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 500

MOVEMENT OF EXCESS DIMENSION LOADS AND MARKING OF CARS AND OREGON RAILROAD HAZARDOUS MATERIALS TRANSPORTATION RULES

741-500-0010

Excess Width Loads

(1) The movement of open-top cars containing lading which extends laterally in excess of five feet, five inches from centerline of car is not permitted unless the lading is of such a nature that it cannot practically be reduced in dimension.

(2) Each open-top car containing lading which extends laterally more than five feet, five inches from the centerline of the car and cannot be practically reduced in dimension shall be marked, stenciled, or placarded, and such markings maintained in a legible condition to read as applicable: **"This car EXCESS WIDTH"**

(3) The words **"EXCESS WIDTH"** shall occupy the greater portion of a space of seven inches by ten inches. Letters shall be of colors contrasting to the car body. All such required markings and placarding shall be placed on the side adjacent to the ladder or handholds near the floorline of the car at each of the four corners where practicable, and in addition one each of such signs shall be placed on each side of the load in a conspicuous position.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0005

741-500-0020

Notice of Lading Extending Laterally More Than Five Feet, Five Inches

The movement of all open-top cars having lading which extends laterally in excess of five feet, five inches from centerline of car is not permitted unless the railroad first issues a train order, or other written notice indicating the total number of such cars with lading extending laterally more than five feet, five inches and advising crew members that no one is required to ride on the side of such wide car.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.052

Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0015

741-500-0030

Notice of Excess Width Loads Required

Before moving properly placarded excess width loads a railroad shall:

(1) Deliver to the train a written notice or train order informing the crew that the train includes an excess width car, stating the car identification number, and advising that no member of the train crew is required to ride on the side of any such excess width load; and

(2) Notify yard supervisors and, through supervisors, yard crews, sufficiently in advance of the arrival of any excess width load so as to enable them to take necessary safety precautions for yard employees.

Stat. Auth.: ORS 823 & ORS 824
Stats. Implemented: ORS 824.052
Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0020

741-500-0040

Exceptions

OAR 741-500-0010 to 741-500-0030 do not apply to railroads moving excess width loads as described in OAR 741-500-0010, provided that all clearances are safe for the movement of cars ten feet, ten inches wide.

Stat. Auth.: ORS 823 & ORS 824
Stats. Implemented: ORS 824.052
Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0035

741-500-0050

Cars Exceeding Ten Feet, Ten Inches in Width

(1) Each car of a width exceeding ten feet, ten inches, shall be marked, stenciled, or placarded, and such markings maintained in a legible condition to read: **“This car EXCESS WIDTH”**

(2) The words **“EXCESS WIDTH”** shall occupy the greater portion of a rectangular space seven inches by ten inches. Lettering of signs shall be of colors contrasting to that of the car body. All such required marking and placarding shall be placed on the side adjacent to the ladder or handholds near the floorline of the car at each of the four corners.

Stat. Auth.: ORS 823 & ORS 824
Stats. Implemented: ORS 824.052
Hist.: PUC 13-1981, f. & ef. 12-21-81 (Order No. 81-900); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0050

DIVISION 510

OREGON RAILROAD HAZARDOUS MATERIALS TRANSPORTATION RULES

741-510-0010

General Provisions and Definitions

(1) OAR 741-510-0010 through 741-510-0040 and OAR 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, and ORS 469.605(6).

(2) “Director” means the Director of Oregon Emergency Management of the Department of State Police.

(3) Pursuant to ORS 824.086(1), the term “hazardous materials” means any hazardous material or hazardous substance defined in **Title 49, CFR, Part 171.8**, as adopted in OAR 741-520-0010.

(4) “Incident” means fire, breakage, spillage, derailment, suspected radioactive contamination, or any other situation which in the judgment of the railroad should be reported to any emergency response agency.

(5) “Emergency Response Agency” means a fire department or district and a police or law enforcement agency.

(6) “STCC number” means the first four digits of the Standard Transportation Commodity Code as contained in the Standard Transportation Commodity Code Tariff effective July 14, 1997.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 469.605, ORS 823.011 & ORS 824.090
Stats. Implemented: ORS 824.080 - ORS 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

741-510-0020

Advance Notification of Transportation

(1) Pursuant to ORS 824.082, each railroad intending to transport hazardous materials, if any part of such transportation is to take place within this state, shall provide to the Director, the Department of Transportation, and each of its dispatchers, a milepost oriented inventory of each rail line which it owns, leases or operates, which inventory shall include:

(a) The name and long-distance 24-hour telephone number of each emergency response agency empowered to respond to any incident involving hazardous materials along the aforesaid rail lines;

(b) The territorial limits, as defined by railroad mileposts, for each emergency response agency.

(2) Pursuant to ORS 824.082, each railroad intending to transport hazardous materials, if any part of such transportation is to take place within this state, on an annual basis shall provide to each of the emergency response agencies listed in the milepost oriented inventory required by section (1) of this rule the following information:

(a) A list of each type of hazardous material (including STCC number) and quantity (carloads, trailer/container loads), transported through or within the territory of the emergency response agency, including (but not segregating) movements originated and terminated within the territory, during the preceding calendar year;

(b) Changes in publications issued by the U.S. Department of Transportation, Materials Transportation Bureau and by the Association of American Railroads, Bureau of Explosives, which contain a description of the method of properly handling each type of hazardous material transported in case of incident;

(c) The name, address, and telephone number of its person in charge of education and training related to such handling;

(d) Approximate normal operating schedules for trains carrying hazardous materials;

(e) Normal procedures for placement in trains of cars carrying each type of hazardous materials;

(f) Method of obtaining information from the railroad, including the railroad’s 24-hour emergency telephone number, in case of incident (including car identification system and method of obtaining information regarding lading in cars where the car numbers are not visible).

(3) The deadline for filing the annual written information required by section (2) of this rule shall be March 1 of each year. Effective with the filing date due on March 1, 1984, the information provided pursuant to subsection (2)(a) of this rule shall be furnished in the format depicted in Figure 1. Estimates of the quantities of hazardous materials transported during the preceding year shall be deemed sufficient to comply with the provisions of subsection (2)(a) of this rule, except that the filing due on March 1, 1985, and in each fifth year thereafter, shall contain actual and complete tabulations of the information required by subsection (2)(a) of this rule.

(4) On an annual basis, each railroad shall make a written request to each emergency response agency listed in the milepost-oriented inventory required by section (1) of this rule for verification of the information listed therein regarding the 24-hour long distance emergency telephone number and the geographical limits of said agency as described by railroad milepost numbers.

(5) Pursuant to ORS 824.082, each railroad intending to transport hazardous materials for which an “Explosives A/Explosive 1.1, 1.2” or a “Poison Gas/2.3, 6.1 PG I, Hazard Zone A” placard is required, if any part of such transportation is to take place within this state, shall provide advance telephonic notification to the Director. The notification shall include, at a minimum, the following information as applicable:

(a) Name of hazardous material(s) to be transported;

(b) Quantity thereof;

(c) Complete identification of the railroad equipment in or on which the material is being shipped, including car identification numbers, car types and identification of any trailer or container equipment involved;

(d) Name or identification number of each train handling hazardous materials;

(e) The point within the state at which transportation by the reporting railroad will begin;

- (f) The point within the state at which transportation by the reporting railroad will end or where the materials will leave the state;
- (g) Estimated time of the beginning of such movement; and
- (h) Estimated time for completion of the movement within the state by the reporting railroad.

[ED. NOTE: The Figure referenced in this rule is not printed in the OAR Compilation. Copies are available from agency.]

Stat. Auth.: ORS 469.605, ORS 823.011 & ORS 823.061

Stats. Implemented: ORS 824.082 & ORS 824.086

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

741-510-0030

Radio Requirements

(1) To insure that train crew members have the ability to communicate with each other and with the train dispatcher while transporting hazardous materials within this state, the radio transmitter-receivers with which the train is equipped pursuant to ORS 824.088 shall each be capable of transmitting and receiving voice messages on the same wave lengths as the transmitter-receivers at the office of the dispatcher in charge of the train involved.

(2) At least one radio transmitter-receiver in good working order shall be located in the leading locomotive and one in the occupied caboose, if any.

(3) Trains which are operated without an occupied caboose shall be equipped with one radio transmitter-receiver in the lead locomotive and at least one radio handset, both in good working order.

Stat. Auth.: ORS 183.335, ORS 824.090, ORS 825.210, ORS 825.252, ORS 825.258 & ORS 825.260

Stats. Implemented: ORS 824.088

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 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0520

741-510-0040

Inspection of Rail Cars

(1) As part of its implementation of the visual inspection requirement of ORS 824.084, each railroad shall issue specific written instructions to its operating employees, directing that the required inspections, if no car man is on duty, shall be made by a member of the train or switch crew at each yard or station where the affected rail cars are to be picked up, set out, or where a movement of a train containing affected rail cars terminates or originates. Said instructions shall further specify that the person making the inspection shall ascertain whether there is any evidence or signs of leakage or other loss or change of contents from any affected rail cars and whether there are any obvious defects in the running gear of any affected rail cars. Said instructions shall further specify that the dispatcher shall be immediately notified of all problems observed which are not promptly corrected.

(2) Each railroad shall provide the written instructions required by section (1) of this rule within 30 days from the effective date of this rule. Said instructions shall be reissued by general distribution to operating employees at least once annually.

Stat. Auth.: ORS 183, ORS 469, ORS 823, ORS 824 & ORS 825

Stats. Implemented: ORS 824.084

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 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-046-0530

DIVISION 520

HAZARDOUS WASTE

741-520-0010

Adoption of Federal Regulations

The Department of Transportation adopts the rules of the United States Department of Transportation, in effect on July 14, 1997, as set forth in **Title 49, Code of Federal Regulations, Parts 171 through 179, Hazardous Materials Regulations**, insofar as those rules

apply to railroads and railroad shippers. These regulations are available from ODOT Rail Section.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 823.011, ORS 823.061, ORS 824.086 & ORS 824.090

Stats. Imp.: ORS 824.061, ORS 824.086 & ORS 824.090

Hist.: PUC 8-1984, f. & ef. 4-12-84 (Order No. 84-272); 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, (and corrected 1-31-91) (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 1-1996, f. 2-16-96, cert. ef. 4-1-96; Renumbered from 860-046-0920; RS 2-1996, f. & cert. ef. 3-14-96; RS 1-1997, f. & cert. ef. 6-27-97

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 & ORS 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 & ORS 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 & ORS 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 Branch (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 & ORS 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 & ORS 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 & ORS 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 Reports R-1, Schedule 710, for the year 1984 or subsequent refinements. Equipment utilization shall be reflective of each carriers' on-line service for the most recent year:

(A) Empty-car-miles;

(B) Loaded-car-miles.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 823.010

Hist.: PUC 2-1979, f. & ef. 7-13-79 (Order No. 79-470 and 79-638); PUC 5-1981, f. & ef. 6-29-81 (Order No. 81-412); PUC 3-1982, f. & ef. 3-4-82 (Order No. 82-133); PUC 25-1985, f. & ef. 12-12-1985 (Order No. 85-1180); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-048-0005

741-700-0020

Class I Railroads and Subsidiary Railroad(s) Operating in Oregon

Annual reports will be submitted on the most current forms approved by the Department. Reports shall include:

(1) The Surface Transportation Board prescribed wage statistics Forms A and B;

(2) Freight Commodity Statistics; and

(3) Annual report including state supplemental pages. Reports for each data based year shall be filed on or before May 1 of the next year unless additional time is granted.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.030

Hist.: PUC 2-1979, f. & ef. 7-13-79 (Order No. 79-470 and 79-638); PUC 5-1981, f. & ef. 6-29-81 (Order No. 81-412); PUC 3-1982, f. & ef. 3-4-82 (Order No. 82-133); PUC 25-1985, f. & ef. 12-12-85 (Order No. 85-1180); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-048-0050

741-700-0030

Other Than Class I Railroads

Annual reports will be submitted on the most current form approved by the Department. Reportings are to be minimal so as to create no undue burden on the railroads yet provide information necessary to carry out the duties of the Department.

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.030

Hist.: PUC 3-1982, f. & ef. 3-4-82 (Order No. 82-133); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-048-0055

DIVISION 710

RAILROAD REGULATORY FEE METHODOLOGY FOR COMPUTING THE REGULATORY RAIL FEE

741-710-0010

Definitions

(1) "Gross Operating Revenues." The definitions of "gross operating revenues" for the purpose of collecting the Railroad Regulatory Fee from all railroads are set forth below:

(a) Freight Transportation. "Gross operating revenues" for transportation of freight include the railroad's division of total charges collected for shipments by railroad, apportioned on a mileage basis for the portion of the transportation performed by the railroad in this state. They also include demurrage, switching charges, and all accessorial charges for services performed in this state in connection with transportation of freight by railroad. They include lawful tariff rates, charges on exempt traffic and charges under contract agreements;

(b) Passenger Transportation. "Gross operating revenues" for transportation of persons by railroad include total charges collected for transportation of persons by railroad, allocated on a mileage basis

for the portion of the transportation performed in this state. They also include all charges for on-train services such as sales of food, beverages, and other products made in this state.

(2) "Railroad-Highway Crossing." For the purpose of collecting the Railroad Regulatory Fee from Class I railroads, "railroad-highway crossing" or "crossing" means an intersection of a highway, as defined in ORS 824.200, and one or more railroad tracts, including intersections at grade and at separated grades as described by OAR 741-105-0020(2).

(3) "Track Miles." Track miles are all first main track miles reported by the railroad in Class (1), (3), and (5) on Schedule SC-700 of the State Statistics supplement to the Surface Transportation Board R-1 Annual Report.

Stat. Auth.: ORS 183.335 & ORS 824

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 860-049-0000

741-710-0020

Determination of Fee Components

Each component of the Railroad Regulatory Fee computation for Class I railroads, as set forth in ORS 824.010, shall be determined as follows:

(1) Railroad-Highway Crossings: A railroad-highway crossing shall be assigned to the railroad responsible for performing maintenance of the portion lying within the track area at the crossing.

(2) Track Miles: Each railroad's track miles are defined in OAR 741-710-0010(3).

(3) Gross Operating Revenues: Each railroad's gross operating revenues are defined in OAR 741-710-0010(1).

Stat. Auth.: ORS 183.335 & ORS 824

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 860-049-0010

741-710-0030

Responsibilities of Department

On or before January 21 of each year, the Department of Transportation shall provide the following information to each Class I railroad:

(1) Railroad-Highway Crossing Information. An itemized listing of each railroad's crossings from the Department's records as of December 31 of the preceding year.

(2) Track Miles Information. A statement of the railroad's total track miles as of December 31 of the preceding year.

Stat. Auth.: ORS 183.335 & ORS 824

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 860-049-0020

741-710-0040

Responsibilities of Class I Railroads

(1) Reconciliation of Data Furnished by the Department. On or before February 15 of each year, each railroad shall provide a written submission to the Department reconciling any differences with the information provided by the Department under OAR 741-710-0030. If a railroad fails to provide a written submission, the Department shall use its own information to determine the apportionment factors in computing the Regulatory Rail Fee assessment for the railroad.

(2) Gross Operating Revenues. On or before March 15 of each year, each railroad shall provide the Department a written submission

showing its total gross operating revenues as defined in OAR 741-

710-0010(1).

Stat. Auth.: ORS 183.335 & ORS 824

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 860-049-0030