

## Transport of Hazardous Materials by Rail Recommendations for Rule Changes

### Proposed Rule

OAR 741-510-0010

General Provisions and Definitions

(1) OAR 741-510-0010 through 741-510-0050 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.]~~

~~(2) “Emergency Response Agency” means a local fire department or district and a police or law enforcement agency.~~

~~(3) “Hazard Class” means the category of hazard assigned to a hazardous material under the definitional criteria in 49 CFR Part 173 and as listed in the hazardous material table in 49 CFR 172.101.~~

~~(34) [Pursuant to ORS 824.086(1), the term “h-” Hazardous materials” means any hazardous material or hazardous substance defined in Title 49, CFR, Part 171.8, as adopted in OAR ~~741-520-0010~~ 741-510-0015 pursuant to ORS 424.086(1).]~~

~~(45) “Incident” means any situation involving hazardous materials where 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]~~ where a release or suspected release of hazardous materials occurs.~~

~~[(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.]~~

~~(56) “Rail Division” means the Rail and Public Transit Division of the Oregon Department of Transportation.~~

~~(67) “UN or NA Identification Number” means the 4-digit number assigned to the proper shipping name of a hazardous material as referenced in 49 CFR 172.101. Most of these identification numbers are assigned by the United Nations and are preceded by “UN”. “NA” numbers are identical to UN numbers, except that some substances without a UN number may have an NA number. These identification numbers provide a common reference for hazard~~

information and general emergency response procedures for hazardous materials in transportation.

OAR 741-510-0015

Adoption of Federal Regulations

(1) The Department of Transportation adopts the rules of the United States Department of Transportation as set forth in Title 49, Code of Federal Regulations, Parts 171 through 180, Hazardous Materials Regulations, insofar as those rules apply to railroads and railroad shippers.

OAR 741-510-0020

Advance Notification of Hazardous Material Transportation Emergency Preparedness Coordination

~~(1) [Pursuant to ORS 824.082, e] Each railroad, [intending to transport hazardous materials, if any part of such transportation is to take place within] before transporting hazardous materials in this state, shall provide to the Director of Oregon Emergency Management, the Director of the Oregon Department of Transportation Rail Division, the Rail Division, and each of ~~its~~ the railroad's dispatchers, ~~[a milepost-oriented inventory of] the following information for~~ each rail line ~~[which] it [owns, leases or operates, which inventory shall include] operates:~~~~

(a) The name and ~~[long-distance]~~ 24-hour telephone number of each local emergency response agency ~~[empowered to respond to any incident involving hazardous materials]~~ along the ~~[aforesaid]~~ rail lines; (this may be removed, once confirmation received that 911 both has and maintains current territorial limits and will share with OERS and ODOT/DEQ.)

(b) The territorial limits, as defined by railroad mileposts, for each emergency response agency. (this may be removed, once confirmation received that 911 both has and maintains current territorial limits and will share with OERS and ODOT/DEQ.)

~~[(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)] (c) [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] A description of the method of properly handling each type of hazardous material transported in case of incident, which may include publications issued by the U.S.~~

Department of Transportation, Pipeline and Hazardous Materials Safety Administration and by the Association of American Railroads, Bureau of Explosives.

~~[(e)]~~ (dc) The name, address, and telephone number of ~~its~~ the railroad's 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;

~~(fd)~~ [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) for obtaining information [regarding lading in cars where the car numbers are not visible] about train contents, including the type, quantity and train placement of hazardous material.

~~[(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)]~~ (2) On an annual basis, each railroad shall make a written or electronic 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. (this may be removed, once confirmation received that 911 both has and maintains current territorial limits and will share with OERS and ODOT/DEQ.)

~~(33)~~ In addition to section (1) of this rule, each railroad shall provide updated information required in 741-510-0020(a) through (fd) to the Director of Oregon Emergency Management, the Director of the Oregon Department of Transportation Rail Division, the Rail Division, and each of the railroad's dispatchers by March 1 of each year.

~~[(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.}]*

#### OAR 741-510-0025

#### Monthly/Quarterly Notification of Hazardous Material Transportation

(1) Each railroad transporting hazardous materials, if any part of such transportation takes place within this state, shall provide electronic mail notification to ~~each emergency response agency along their lines, the Director of Oregon Emergency Management, the Director of Oregon Department of Transportation, and the Rail Division,~~ for each ~~month~~quarter in which hazardous materials are transported.

(a) The ~~monthly~~quarterly notification shall be made by the reporting railroad no later than the last day of the month following the ~~month~~quarter in which transportation of the hazardous material(s) shipment by the reporting railroad ends, or the hazardous material(s) shipment leaves the state.

(2) The ~~monthly~~quarterly notification shall include:

(a) The name, UN or NA identification number and hazard class of the hazardous material(s) transported;

(b) The ~~type and~~ quantity of rail car(s) involved in the transportation of the hazardous material (e.g., ~~tank car, covered hopper, trailer, container, etc.~~);

(c) The railroad mileposts within the state at which transportation by the reporting railroad started and ended.

(3) The Rail Division shall make the information provided in the quarterly notification available to public agencies with a role in emergency response, emergency planning, environmental remediation, or public health.

(4) The Rail Division shall prepare an annual report based on the quarterly reports submitted by each railroad transporting hazardous materials, of hazardous materials transported in the previous calendar years.

741-510-0027

Public Notification of Transportation

Pursuant to 824.082 and 824.086, Oregon Department of Transportation shall make accessible to the general public information quarterly-reported information required by section (1) through (4) of OAR 741-510-0025. Information accessibility will be subject to public records disclosure laws and will require a public records request.

OAR 741-510-0026

Annual Notification of Hazardous Material Transportation

(1) Each railroad transporting hazardous materials, if any part of such transportation takes place within this state, shall provide an annual notification to each emergency response agency along their lines, the Director of Oregon Emergency Management, the Director of the Oregon Department of Transportation, and the Rail Division, of hazardous materials transported by the reporting railroad in the previous calendar year.

(2) The annual notification shall include:

(a) The name, UN or NA identification number, and hazard class(es) of the hazardous material(s) transported;

(b) The type and quantity of rail car(s) involved in the transportation of the hazardous material (e.g., tank car, covered hopper, trailer, container, etc.);

(c) The railroad mileposts within the state at which transportation by the reporting railroad started and ended.

(4) The deadline for providing the annual information required by this rule shall be March 1 of each year.

~~[OAR 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.]~~

#### OAR 741-510-0035

##### Immediate Access to Train Information for Emergency Response Agencies

(1) Each railroad transporting hazardous materials, if any part of such transportation takes place within this state, shall ensure that emergency response agencies responding to incidents on the transporting railroad's lines have immediate telephonic or electronic access to information about train contents, including the type, quantity and train placement of hazardous material.

~~[OAR 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.]~~

#### OAR 741-510-0045

##### Notice to Office of Emergency Management of Reportable Incidents

(1) Each railroad shall notify the [Director of the Office of Emergency Management, Director of the Oregon Department of Transportation, and the Rail Division Oregon Emergency Response System \(OERS\)](#) by telephone or similar means of communication of any derailment or fire, which involves or affects a hazardous material shipment within two hours from the time the railroad discovers the incident. [\(Match to Federal reporting time requirements\)](#)

(2) OERS will notify all state and local emergency responders following their adopted protocols. [\(Verify\)](#)

OAR 741-510-0050

Civil Penalties

(1) Pursuant to ORS 824.990(1) and (2),

(a) Any railroad that fails to submit the ~~advance notification~~ emergency preparedness coordination information required by OAR 741-510-0020 shall incur a civil penalty of \$1000 for each day of non-compliance.

(b) Any railroad that fails to make the ~~monthly~~ quarterly notification required by OAR 741-510-0025 shall incur a civil penalty of \$1000 for each day of non-compliance.

~~(c) Any railroad that fails to make the annual notification required by OAR 741-510-0026 shall incur a civil penalty of \$1000 for each day of non-compliance.~~

(c) Any railroad that fails to provide emergency response agencies with immediate access to hazardous material information as required by OAR 741-510-0035 shall incur a civil penalty of \$1000 for each incident.

(d) Any railroad that fails to provide the notice of a reportable incident required in OAR 741-510-0045 shall incur a civil penalty of \$1000 for each unreported incident.

(2) The Oregon Department of Transportation may reduce any penalty provided for in this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request to the department for reduction of the penalty; or

(3) Civil penalties imposed under this section shall be imposed in the manner provided in ORS 183.745.