

DEPARTMENT OF TRANSPORTATION,  
RAIL DIVISION

Administrative Rule Modification: Draft 2.09.15

**DIVISION 510**

**OREGON RAILROAD HAZARDOUS MATERIALS TRANSPORTATION RULES**

**741-510-0010**

**General Provisions and Definitions**

(1) OAR 741-510-0010 through 741-510-0050 and 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) "Emergency Response Agency" means county or local jurisdictions, and tribal, state and federal agencies, with a responsibility to conduct first response or support emergency operations and clean-up.

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

(4) "Hazardous Material" means any hazardous material or hazardous substance defined in Title 49 CFR 171.8, as adopted in OAR 741-520-0015 pursuant to ORS 424.086(1).

(5) "Incident" means any situation where a release of a Hazardous Material occurs, involving fire, breakage, spillage, or derailment.

(6) "Line Segment" means a length of rail line over which a Hazardous Material is transported between two or more stations within the state that are identified on a current railroad timetable. A Line Segment will terminate at the nearest station where an alternate route exists.

(7) "Rail Division" means the Rail and Public Transit Division of the Oregon Department of Transportation.

(8) "Railroad Emergency Response Telephone Number" means a telephone number that is answered at all times by a person who is able to provide detailed information regarding specific Incidents involving Hazardous Materials on the railroad, or has immediate access to a person who possesses such knowledge and information. A telephone number that requires a call back

(such as an answering service, answering machine, or beeper devise) does not meet the requirements of this definition.

(9) “Timetable” means a publication containing instructions relating to the movement of trains or equipment and other essential information for purposes of railroad operations.

(10) “UN or NA Identification Number” means the 4-digit number assigned to the proper shipping name of a Hazardous Material as referenced in 49 CFR 172.101. “UN” numbers are assigned by the United Nations and are preceded by “UN”. “NA” (North American) numbers are identical to UN numbers, except that some substances without a UN number may have an NA number. These identification numbers provide a common reference for hazard information and general emergency response procedures for Hazardous Materials in transportation.

#### **741-510-0015**

##### **Adoption of Federal Regulations**

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.

#### **741-510-0020**

##### **Railroad Reporting Information**

There are different entities involved in the transportation of Hazardous Materials by rail and response to any associated Incidents. Information sharing ensures emergency responders have information to guide preparedness efforts and effective response actions.

(1) Each railroad before transporting Hazardous Materials in this state shall provide by electronic mail to the Rail Division, the following information for each rail line it operates in the state:

(a) Current railroad Timetable;

(b) The name, address, and telephone number of the railroad’s person in charge of education and training related to Hazardous Material transportation;

(c) The Railroad Emergency Response Telephone Number for obtaining information about train contents, including the type, quantity and placement of Hazardous Material cars within the train.

(2) Each railroad shall provide updated information required in 741-510-0020(a) through (c) to Rail Division no later than the last day of the month following the month the change was made.

## **741-510-0025**

### **Quarterly Reporting of Hazardous Material Transportation**

(1) Each railroad transporting Hazardous Materials, if any part of such transportation takes place within this state, shall provide a report via electronic mail to the Rail Division, for each quarter in which Hazardous Materials are transported.

(a) The quarterly report shall be made by the reporting railroad no later than the last day of the month following the quarter in which transportation of the Hazardous Material shipment ends, or the Hazardous Material shipment leaves the state.

(2) The quarterly report shall segregate the reportable data by month. The quarterly report shall include:

(a) The name, UN or NA Identification Number and Hazard Class of the Hazardous Material transported;

(b) The number of loaded rail cars and residue rail cars used to transport the Hazardous Material, including any intermodal trailers, containers, and tank containers required to be marked with the UN or NA Identification Number of the Hazardous Material;

(c) The railroad Line Segments in the state over which the Hazardous Material was transported.

(3) The Rail Division shall prepare an annual report based on the quarterly reports submitted by each railroad.

(4) The Rail Division shall make the information provided in the quarterly and annual reports available to Emergency Response Agencies.

## **741-510-0027**

### **Public Disclosure of Reporting Hazardous Material Transportation**

(1) Pursuant to ORS 824.082 and ORS 824.086, the Rail Division shall make accessible to the general public, information reported quarterly, required by section (1) through (4) of OAR 741-510-0025. Disclosure of the reports will be subject to public records disclosure laws and will require a public records request.

(2) ORS 192.501 and ORS 192.502 provide that certain records (i.e., trade secrets) are exempt from disclosure under ORS 192.410 to ORS 192.050 unless the public interest requires disclosure in a particular instance. Persons required to provide information under these rules may request that the Rail Division treat some or all of their information as exempt from public disclosure by:

(a) Making the claim in writing at the time the required information is provided to the Rail Division, and;

(b) Providing any written documentation or analysis that supports the claim of exemption from public disclosure at the time the required information is provided to the Rail Division.

#### **741-510-0035**

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

Each railroad transporting Hazardous Materials, if any part of such transportation takes place within this state, shall ensure that Emergency Response Agencies responding to an Incident on the transporting railroad's lines have immediate telephonic and/or electronic access to information about train contents, including the type, quantity and placement of Hazardous Material cars within the train.

#### **741-510-0045**

##### **Notice of Incidents**

Emergency Response Agencies require immediate notification of Incidents to mobilize responders and equipment and initiate alerts to the impacted public to protect lives, property and the environment, and ensure timely and effective response.

(1) In the event of an Incident that in the judgment of the railroad requires fire, police, or medical response, the railroad shall immediately notify 9-1-1.

(2) Notwithstanding any other requirement of Oregon law, each railroad shall notify the Oregon Emergency Response System (OERS) immediately by telephone or similar means of communication of any Incident. Notification to OERS is not a substitute to calling 9-1-1 for an Incident that requires fire, police, or medical response.

(3) Notifications required in (1) and (2) of this section shall be considered immediate if made as soon as possible following the Incident.

(4) The notifications required of an Incident to OERS will at a minimum, include:

(a) Name and phone number of the person making the notification;

(b) Name of the operating railroad reporting the Incident;

(c) Name and phone number of the railroad contact person who is able to provide updated Incident information;

(d) Date and time of the Incident;

(e) Location of the Incident by railroad milepost and nearest city or town;

(f) Type of Incident and nature of Hazardous Material involvement;

(g) Estimated number of Hazardous Material rail cars involved.

(5) Upon request, railroads shall provide the following information to Emergency Response Agencies through the Railroad Emergency Response Telephone Number:

- (a) Location of the Incident by latitude/longitude;
  - (b) Whether a continuing danger to life exists at the scene;
  - (c) Actions taken, such as containment, shelter-in-place, or evacuation;
  - (d) The extent of any known injuries;
  - (e) Hazard Class, proper shipping name, and the quantity of Hazardous Materials involved and released;
  - (f) The car reporting marks for any rail car involved in the release or suspected release of a Hazardous Material;
- (6) OERS will notify appropriate state agencies following their adopted protocols.

**741-510-0050**  
**Civil Penalties**

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

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

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

(c) Any railroad that fails to provide Emergency Response Agencies with immediate access to Hazardous Material information as required by OAR 741-510-0035 shall incur a civil penalty of \$1000 for each incident.

(d) Any railroad that fails to provide the notice of a reportable Incident to Oregon Emergency Response System (OERS) required in OAR 741-510-0045(2) shall incur a civil penalty of \$1000 for each unreported incident.

(2) The Oregon Department of Transportation may reduce any penalty provided for in this section on such terms as the department considers proper if the defendant admits the violations alleged in the notice and makes timely request to the department for reduction of the penalty.

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