

## **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) “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.

(4) “Hazardous materials” means any hazardous material or hazardous substance defined in Title 49, CFR, Part 171.8, as adopted in OAR - 741-510-0015 pursuant to ORS 424.086(1).

(5) “Incident” means any situation involving hazardous materials where fire, breakage, spillage, derailment, suspected radioactive contamination, or any other situation where a release or suspected release of hazardous materials occurs.

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

(7) “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

### Emergency Preparedness Coordination

(1) Each railroad, before transporting hazardous materials in this state, shall provide to the Oregon Department of Transportation Rail Division, and each of the railroad's dispatchers, the following information for each rail line it operates:

(a) The name and 24-hour telephone number of each local emergency response agency along the 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.)

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

(d) The railroad's 24-hour emergency telephone number for obtaining information about train contents, including the type, quantity and train placement of hazardous material.

(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 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.)

(3) In addition to section (1) of this rule, each railroad shall provide updated information required in 741-510-0020(a) through (d) to the Rail Division by March 1 of each year.

## OAR 741-510-0025

### 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 the Rail Division, for each quarter in which hazardous materials are transported.

(a) The quarterly notification 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(s) shipment by the reporting railroad ends, or the hazardous material(s) shipment leaves the state.

(2) The quarterly notification shall include:

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

(b) The quantity of rail car(s) involved in the transportation of the hazardous material;

(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 741-510-0035

#### 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 741-510-0045

#### Notice of Reportable Incidents

(1) Each railroad shall notify the 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 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 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 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.