

Oregon Railroad Hazardous Materials Transportation
Adoptions, Amendments, Repeals

741-510-0010

General Provisions and Definitions

(1) OAR 741-510-0010 through [741-510-0040] **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) [(5)] “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. [a 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, in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015).

(4) “Hazardous Material” means any hazardous material or hazardous substance defined in Title 49 CFR 171.8, as adopted in OAR 741-520-0015 pursuant to ORS 424.086(1) on the date this rule is filed with the Secretary of State (anticipated June 18, 2015). [(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.]

(5) [(4)] “Incident” means any situation where a release of a Hazardous Material occurs, involving fire, breakage, spillage, or derailment. [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.]

(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.

[(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.]

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

(8) “Railroad Emergency Response Telephone Number” means a telephone number that is answered at all times by a person who is able to provide detailed information regarding specific Incidents involving Hazardous Materials on the railroad, or has immediate access to a person who possesses such knowledge and information. A telephone number that requires a call back (such as an answering service, answering machine, or beeper device) does not meet the requirements of this definition.

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

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061 and 824.086

Stats. Implemented: ORS 824.080 through 824.092

NEW RULE

741-510-0015

Adoption of Federal Regulations

The Department of Transportation adopts the rules of the United States Department of Transportation in effect on the date this rule is filed with the Secretary of State (anticipated June 18, 2015) in Title 49, Code of Federal Regulations, Parts 107 through 180, Hazardous Materials Regulations, insofar as those rules apply to railroads and railroad shippers.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061 and 824.086

Stats. Implemented: ORS 824.080 through 824.092

This rule is rewritten in its entirety. Current rule text follows proposed text for the reader’s convenience.

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.

[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.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061 and 824.086

Stats. Implemented: ORS 824.080 through 824.092

NEW RULE

741-510-0025

Quarterly Reporting of Hazardous Material Transportation

(1) Each railroad transporting Hazardous Materials, if any part of such transportation takes place within this state, shall provide a report via electronic mail to the Rail Division, for each quarter in which Hazardous Materials are transported. The quarterly report shall be made by the reporting railroad no later than the last day of the month following the quarter in which transportation of the Hazardous Material shipment ends, or the Hazardous Material shipment leaves the state.

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

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

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

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

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

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061 and 824.086

Stats. Implemented: ORS 824.080 through 824.092

NEW RULE

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.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061 and 824.086

Stats. Implemented: ORS 824.080 through 824.092

This rule is repealed in its entirety.

[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, 824.090, 825.210, 825.252, 825.258 & 825.260
Stats. Implemented: ORS 824.088]

NEW RULE

741-510-0035

Immediate Access to Train Information for Emergency Response Agencies

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061 and 824.086
Stats. Implemented: ORS 824.080 through 824.092

This rule is repealed in its entirety.

[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, 469, 823, 824 & 825
Stats. Implemented: ORS 824.084]

NEW RULE

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.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061 and 824.086

Stats. Implemented: ORS 824.080 through 824.092

NEW RULE

741-510-0050

Civil Penalties

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

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

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

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

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

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

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 823.061 and 824.086

Stats. Implemented: ORS 824.080 through 824.092

Public Hearing Summary

The public hearings were lightly attended with a number written comments being submitted. Comments included:

Comment	ODOT Response
1. An immediate need for detailed information regarding the exact type and qualities of materials released to avoid contamination of water supply.	This concern is addressed with the new requirement of railroads providing 24/7/365 contact regarding incident response.
2. A need to establish positive and immediate contact with railroads to both report potentially harmful situations along a track and also for the railroad to quickly communicate the contents of specific cars.	Information access is being provided through the new rule language.
3. A desire for improved radio communications, adding language to the rule that would require the designation of a statewide railroad radio frequency to allow emergency responders and train crews to speak directly to each other during an emergency.	Establishing radio communication requires coordination between the railroad companies and the local, state and federal emergency response community.
4. A need for immediate access to information for first responders. Also the route information for oil trains, the frequency of their entry into locations, as well as the amount and type of material that is being transported.	Information access is being provided through the new rule language. Additional specificity regarding frequency, locations is pre-empted by federal rule.
5. A need for additional training and resources to adequately respond to oil train incidents.	This is outside the scope of the OAR.
6. A need for ODOT's proposed new rules to comply with the federal rules.	The state-revised OAR is consistent with the federal law.