

CHAPTER 741

DEPARTMENT OF TRANSPORTATION, RAIL DIVISION

FILING CAPTION: State Safety Oversight of Rail Fixed Guideway Public Transportation Systems That Receive Federal Funding

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RULES: 741-060-0010, 741-060-0020, 741-060-0030, 741-060-0040, 741-060-0070, 741-060-0072, 741-060-0074, 741-060-0076, 741-060-0078, 741-060-0079, 741-060-0090, 741-060-0092, 741-060-0098, 741-060-0100, 741-060-0101, 741-060-0102, 741-060-0103, 741-060-0105, 741-060-0107, 741-060-0110, 741-065-0010, 741-065-0020, 741-065-0030, 741-065-0040, 741-065-0070, 741-065-0072, 741-065-0074, 741-065-0076, 741-065-0078, 741-065-0090, 741-065-0092, 741-065-0094, 741-065-0100, 741-065-0101, 741-065-0102, 741-065-0103, 741-065-0105, 741-065-0107, 741-065-0110

AMEND: 741-060-0010

RULE TITLE: General Provisions

RULE SUMMARY: Federal Transit Administration (FTA) statutes and regulations have been updated to include 49 CFR 670, 49 CFR 671, 49 CFR 672 and 49 CFR 673. Sensitive Security information requirements have been deleted as FTA no longer requires SSOA to oversee RTA security.

RULE TEXT:

(1) OAR 741-060-0010 through 741-060-0107 establish a state safety oversight program that applies to all rail transit agencies (RTAs) that own or operate rail fixed guideway public transportation systems (RFGPTS) in Oregon that receive federal funds and are not subject to regulation by the Federal Railroad Administration.

(2) The Oregon Department of Transportation (ODOT) is designated as the state safety oversight agency (SSOA) for the State of Oregon, in accordance with 49 U.S.C. 5329.

(3) Federal Transit Administration (FTA) statutes, 49 U.S.C. 5329, and regulations, 49 CFR 670, effective 9/11/2016, 49 CFR 672, effective 8/20/2018, 49 CFR 673, effective 7/19/2019, and 49 CFR 674, effective 4/15/2016, are hereby adopted by reference as the minimum acceptable standards for oversight of RFGPTS, including those in the process of being designed, engineered, or constructed, that receive federal financial assistance authorized under 49 U.S.C. Chapter 53.

(4) OAR 741-060-0010 through 741-060-0107 apply to all rail transit agencies (RTAs) that own or

operate RFGPTS in the State of Oregon and that receive federal funds.

(5) RTAs shall provide written certification of compliance with these rules to the SSOA a minimum of 90 days prior to beginning new revenue operations or revenue operations on an expanded or modified RFGPTS.

(6) In carrying out its authority, the SSOA may:

(a) Monitor, inspect, investigate and enforce the safety of a RFGPTS;

(b) Conduct inspections, investigations, employee interviews, audits, examinations, and require testing of equipment, facilities, rolling stock, and operations of the RFGPTS;

(c) Review, approve, oversee, audit and enforce the implementation of and compliance with the public transportation agency safety plan, emergency preparedness and response plan and RTA rules, standards, policies and procedures;

(d) Make reports and issue directives with respect to the safety of the RFGPTS;

(e) Investigate public transportation events and provide guidance to RTAs regarding prevention of events;

(f) Take, in conjunction with an event or complaint investigation, or an inspection or audit, or an investigation into a pattern or practice of conduct that negatively affects public safety, the statement of any employee or contractor of an RTA;

(g) Require the production of documents, camera footage, audio recordings and data downloaded from electronic devices and recorders from an RTA and its employees or contractors;

(h) Prescribe recordkeeping and reporting requirements for an RTA;

(i) Enter RTA property to conduct announced and unannounced inspections of equipment, facilities, infrastructure, rolling stock, operations and relevant records;

(j) Remove a vehicle, equipment or track segment from service;

(k) Suspend operations of the RFGPTS and issue civil penalties against RTAs for non-compliance with these or transit agency safety rules; and

(L) Issue civil penalties against individual RTA employees only for willful violation of these or transit agency safety rules.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0020

RULE TITLE: Definitions

RULE SUMMARY: This rule is amended to include current FTA definitions of events and remove security related definitions from the rule, as FTA no longer requires SSOA to monitor RTA security.

RULE TEXT:

As used in OAR 741-060-0010 through 741-060-0107, the following definitions apply:

(1) "Accident" means any event involving an RTV or occurring on a rail transit-controlled property, involving one or more of the following:

(a) "Fatality," as defined in section (13) below;

(b) "Serious Injury," as defined in section (43) below;

(c) All collisions resulting in fatality, serious injury or substantial damage;

(d) "Runaway Train," as defined in section (38) below;

(e) A collision between an RTV and another RTV;

(f) Evacuation for life safety that constitutes a real or potential danger to any person, including but not limited to, a fire, a fuel leak, a vehicle fuel leak, the presence of smoke or noxious fumes, an electrical

hazard, a bomb threat, or a suspicious item or other hazard.

(g) Derailment of an RTV at any time, at any location, whatever the cause.

(2) “Accountable executive” means a single, identifiable individual who has ultimate responsibility for carrying out the RTA’s PTASP and the Transit Asset Management (TAM) Plan and who has control or direction over the human and capital resources needed to develop and maintain both the RTA’s PTASP, in accordance with 49 U.S.C. 5329(d), and the RTA’s TAM Plan, in accordance with 49 U.S.C. 5326.

(3) “Close call/near miss” means a situation or circumstance that had the potential for safety consequences, but did not result in an adverse safety event.

(4) “Comingled Service” means:

(a) Any non-safety sensitive service at the direction of and performed for the RTA that is not separated from safety sensitive service by at least the minimum required number of continuous hours off duty.

Such comingled service is counted as on-duty time pursuant to OAR 741-060-0100; or

(b) Performance of multiple safety sensitive job classifications within the same on-duty time performed for and at the direction of the RTA. Such on duty time will be subject to the most restrictive applicable RTA hours-of-service policy based on the safety sensitive functions performed during the on-duty time.

(5) “Contractor” means an entity that performs tasks on behalf of FTA, a State Safety Oversight Agency, or an RTA, through contract or other agreement.

(6) “Corrective action plan” (CAP) means a plan developed by an RTA that describes the actions the RTA will take to minimize, control, correct, or eliminate risks and hazards, and the schedule and responsibility for implementing those actions.

(7) “Derailment” means an instance when the wheel of an RTV comes off the head of the rail. It does not include vehicles only equipped with rubber tires designed for highway use.

(8) “Electronic Device” means:

(a) An electronic or electrical device used to:

(b) Conduct oral, written, or visual communication;

(c) Place or receive a telephone call;

(d) Send or read an electronic mail or text message;

(e) Look at pictures;

(f) Read a book or other written material;

(g) Play a game;

(h) Navigate the Internet;

(i) Navigate the physical world;

(j) Play, view, or listen to a video;

(k) Play, view, or listen to a television broadcast;

(L) Play or listen to a radio broadcast other than a radio broadcast by an RTA or railroad;

(m) Play or listen to music;

(n) Execute a computational function; or

(o) Perform any other function that is not necessary for the health or safety of the person and that entails the risk of distracting the employee or another transit agency employee from a safety-related task.

(9) “Electronic Device” does NOT mean:

(a) Electronic control systems and information displays within the RTV whether the displays or systems are fixed or portable;

(b) A digital watch whose only purpose and function is as a timepiece;

- (c) A medical device consistent with RTA standards for medical fitness for duty; or
- (d) An agency supplied fixed or portable radio used only for the purposes of RTA related communications.
- (10) “Emergency Preparedness and Response Plan” means a document developed and adopted by the RTA describing its responsibilities and procedures to assure rapid, controlled, and predictable responses to various types of emergencies.
- (11) “Equivalent Authority” means an entity that carries out duties similar to that of a Board of Directors, for a recipient or subrecipient of FTA funds under 49 U.S.C. Chapter 53, including sufficient authority to review and approve a recipient or subrecipient’s Public Transportation Agency Safety Plan.
- (12) “Event” means an accident, incident or occurrence.
- (13) “Fatality” means a death or suicide confirmed within 30 days of a reportable event. Excludes deaths in or on transit property that are a result of illness or other natural causes and criminal homicides or assaults;
- (14) “FTA” means the Federal Transit Administration, an agency within the U.S. Department of Transportation.
- (15) “Hazard” means any real or potential condition that can cause injury, illness or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a rail fixed guideway public transportation system; or damage to the environment.
- (16) “Immediate” means occurring or accomplished without delay.
- (17) “Incident” means an event that involves any of the following:
  - (a) A personal injury that is not a serious injury;
  - (b) One or more injuries requiring medical transport;
  - (c) Non-collision damage to facilities, equipment, rolling stock, or infrastructure that disrupts the operations of a RFGPTS;
  - (d) Evacuation of an RTV into the right-of-way or other adjacent track, or customer self-evacuation;
  - (e) Certain low-speed collisions involving an RTV that result in non-serious injury or property damage;
  - (f) Damage to catenary or third-rail equipment that disrupts transit operations;
  - (g) Fires that result in a non-serious injury or property damage;
  - (h) A train stopping due to an obstruction in the tracks/hard stops; or
  - (i) Most hazardous material spills.
- (18) “Individual” means a passenger, patron, employee, contractor, other rail transit facility worker, pedestrian, trespasser, or any person on rail transit-controlled property.
- (19) “Investigation” means the process of determining the causal and contributing factors of an accident, incident, occurrence, or hazard, for the purpose of preventing recurrence and mitigating risk.
- (20) “National Public Transportation Safety Program” means the plan to improve safety of all public transportation systems that receive federal financial assistance under 49 U.S.C. Chapter 53 and codified at 49 CFR 670, effective 9/12/2016.
- (21) National Transit Database (NTD) Program means the program established in 49 U.S.C. 5335(a) to collect and analyze data related to transit systems and operations in the US. Congress established the NTD to be the Nation’s primary source for information and statistics on the transit systems.
- (22) “NTSB” means the National Transportation Safety Board, an independent federal agency that is charged with determining the probable cause of transportation accidents and promoting transportation safety.
- (23) “Occurrence” means an event with:

- (a) No personal injury;
  - (b) Non-collision-related damage to equipment, rolling stock or infrastructure that does not disrupt the operations of an RTA;
  - (c) Close calls/Near Misses;
  - (d) Violation of safety rule(s) or safety policies;
  - (e) Damage to catenary or third rail equipment that does not disrupt operations;
  - (f) Vandalism, theft or loss;
  - (g) Unauthorized entry.
- (24) “On-duty time” means the actual time an employee reports for duty to begin a safety sensitive assignment. Such time shall continue until that employee is released or relieved from all responsibility for performing safety sensitive work.
- (25) “Patron” means an individual waiting for or leaving rail transit at stations, in mezzanines, on stairs, escalators, or elevators, in parking lots or other transit-controlled property.
- (26) “Person” means a passenger, employee, contractor, pedestrian, trespasser, or any individual on the property of a rail fixed guideway public transportation system.
- (27) “Personal Electronic Device” means an electronic device that was not provided to the RTA employee or contractor by the employing RTA for a business purpose.
- (28) “Program standard” means a written document developed and adopted by the SSOA that identifies the processes and procedures that govern the activities of the SSOA, and the processes and procedures an RTA must have in place to comply with the standard, pursuant to 49 CFR 674.27.
- (29) “Public Transportation Agency Safety Plan” (PTASP) means the comprehensive agency safety plan for an RTA, which is required by 49 U.S.C. 5329(d) and based on a Safety Management System.
- (30) “Public Transportation Safety Certification Training Program” means the certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems, and the employees of public transportation agencies directly responsible for safety oversight, established in accordance with 49 U.S.C. 5329(c)(2), codified at 49 CFR 672, effective 8/20/2018.
- (31) “Rail fixed guideway public transportation system” (RFGPTS) means any fixed guideway system that uses rail, is operated for public transportation, is within the jurisdiction of a State, and is not subject to the jurisdiction of the Federal Railroad Administration, or any such system in the process of being designed, engineered or constructed. Rail fixed guideway public transportation systems include, but are not limited to, rapid rail, heavy rail, light rail, monorail, trolley, streetcar, inclined plane, funicular, and automated guideway used primarily for carrying passengers.
- (32) “Rail transit agency” (RTA) means any entity that provides services on a RFGPTS.
- (33) “Rail transit-controlled property” means property that is used by the RTA and includes property owned, leased, or maintained by the RTA.
- (34) “Rail transit vehicle” or RTV means the RTA’s rolling stock used on a rail fixed guideway public transportation system, including but not limited to, passenger and maintenance vehicles.
- (35) “Record” means any writing, drawing, map, recording, tape, film, photograph, or other documentary material by which information is preserved. The term “record” also includes any such documentary material stored electronically.
- (36) “Risk” means the composite of predicted severity and likelihood of the potential effect of a hazard.
- (37) “Risk mitigation” means a method or methods to eliminate or reduce the effects of hazards.
- (38) “Runaway Train” is an RTV that is no longer under the control of the operator regardless of whether the operator is physically on the vehicle at the same time;

- (39) “Safety” means freedom from harm resulting from unintentional acts or circumstances.
- (40) “Safety Management System” (SMS) means a formal, top-down, organization-wide data-driven approach to managing safety risk and assuring the effectiveness of a recipient's safety risk mitigations. SMS includes systematic procedures, practices and policies for managing risks and hazards.
- (41) “Safety risk management” means a process within an RTA’s safety plan for identifying hazards and analyzing, assessing, and mitigating safety risk.
- (42) “Safety sensitive employee” means an individual employed by, contracted by, or a volunteer of, the RTA that:
- (a) Operates an RTV used for carrying passengers;
  - (b) Dispatches or controls the movement of such vehicles;
  - (c) Reports, transmits, receives or delivers orders pertaining to the movement of such vehicles;
  - (d) Is engaged in the installation or maintenance of the on-track vehicles, train control, train protection, or signaling system; or
  - (e) Is designated as such by the RTA.
- (43) “Serious injury” means any injury which:
- (a) Requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury occurred;
  - (b) Results in a fracture of any bone (except simple fractures of fingers, toes, or nose);
  - (c) Causes severe hemorrhages, nerve, muscle, or tendon damage;
  - (d) Involves any internal organ; or
  - (e) Involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface.
- (44) “State Safety Oversight Agency” (SSOA) means the Oregon Department of Transportation, Commerce and Compliance Division, Rail Safety Section, as designated, to meet the requirements and perform the functions specified by 49 USC 5329(e) and ORS 824.045, et seq.
- (45) “Substantial Damage” means any physical damage to transit or non-transit property including vehicles, facilities, equipment, rolling stock or infrastructure that adversely affects the structural strength, performance or operating characteristics of the vehicle, facility, equipment, rolling stock or infrastructure requiring towing, rescue, onsite maintenance or immediate removal prior to safe operation. Substantial damage excludes damage such as cracked windows, dented, bent or small punctured holes in the body, broken lights, mirrors, or removal from service for minor repair or maintenance, testing, or video and event recorder download.
- (46) “Unacceptable hazard” means a hazard determined to rank as unacceptable using the hazard risk index adopted by the RTA and approved by the SSOA.
- (47) “Unauthorized Entry” is willful entry onto any RTA property, facility or structure, tunnel, or bridge, railyard, maintenance shop or administration area that prohibits regular public access or is protected by intrusion detection devices.
- (48) “Undesirable hazard” means a hazard determined to rank as undesirable using the hazard risk index adopted by the RTA and approved by the SSOA.
- (49) “Willful Violation” means an intentional voluntary act committed either with knowledge of the relevant law or reckless disregard for whether the act violated the requirements of the law.
- STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329
- STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0030

RULE TITLE: Required Plans

RULE SUMMARY: The Public Transportation Agency Safety Plan (PTASP), as promulgated by 49 CFR 673, has replaced the 49 CFR 659 requirement for a System Safety Program Plan (SSPP). The System Security Plan has been removed from this rule, since the FTA no longer requires SSOA to oversee RTA security.

RULE TEXT:

(1) Public Transportation Agency Safety Plan (PTASP)

(a) Any RTA with an RFGPTS shall prepare a PTASP conforming to the requirements of CFR 49 Part 673, effective 7/19/2019, and OAR 741-060-0010 through 741-060-0107.

(b) RTAs are required to submit their draft PTASP to SSOA, for review, throughout the drafting process and upon completion of each pillar, rather than submitting it in its entirety upon completion. The draft PTASP must be submitted to SSOA for review not less than 60 days prior to its anticipated completion.

(c) An RTA shall submit a final PTASP in unalterable form to SSOA prior to getting final signatures. SSOA will review the final, unalterable, PTASP for full compliance with applicable state and federal rules. If the PTASP is determined to be in compliance, SSOA will issue a letter of provisional approval. After receipt of SSOA's provisional approval, the PTASP can then be submitted to the RTA's accountable executive and its governing body, whether it be a Board of Directors or an equivalent authority, for signature. Upon return of the signed and unalterable PTASP to SSOA, SSOA will provide a formal letter of final approval to the RTA.

(d) The PTASP, and all subsequent updates, must be signed by the Accountable Executive and approved by the agency's Board of Directors, or equivalent authority.

(e) The RTA must document the processes and activities related to Safety Management System (SMS) implementation.

(f) The PTASP must include performance targets based on the safety performance measures established under the National Public Transportation Safety Plan, (see 49 CFR 670, effective 9/12/2016).

(g) Each RTA must establish a process for conducting an annual review and update of the PTASP. By July 1 of every year, the RTA shall submit to the SSOA their current PTASP with proposed changes noted, along with identification and explanation of all changes. SSOA will perform a checklist review of the PTASP to assess compliance with Oregon Administrative Rules. The SSOA must approve all changes to the PTASP prior to implementation at the RTA. The Program Standard details the process by which the SSOA will review and approve any changes to the PTASP.

(h) Each RTA must include or incorporate by reference in its PTASP an emergency preparedness and response plan or procedures that address, at a minimum:

(A) Activities and programs in place at the RTA to support planning for emergency preparedness and response;

(B) The assignment of employee responsibilities during an emergency;

(C) Coordination with external response agencies, including Federal, State, regional, and local officials with roles and responsibilities for emergency preparedness and response in the transit agency's service area;

(D) Training and procedures available to ensure employee proficiency with the emergency preparedness and response procedures and processes at the RTA; and

(E) The process for annually reviewing and updating the plan including the process for its annual submission to the SSOA.

(i) The PTASP must address all applicable requirements and standards as set forth in FTA's National Public Transportation Safety Plan, codified at 49 CFR 670, effective 9/12/2016, and the Public Transportation Safety Plan, codified at 49 CFR 673, effective 7/19/2019.

(j) Each RTA shall establish and execute a Competency Management System or Rules Compliance Program for all safety sensitive employees at the RTA as part of the Safety Assurance portion of the PTASP. At a minimum, the plan must require at least one annual monitoring and assessment of the activities of each safety sensitive group, by job function. The RTA will submit a quarterly report to the SSOA indicating completion and detailing the results of the assessment and monitoring activities of the job functions reviewed.

(k) Each RTA shall establish and execute a Configuration Management Plan as part of the Safety Assurance portion of the PTASP. At a minimum, the Configuration Management Plan must describe how changes to the established transit system baselines will be proposed, accepted, monitored, and controlled within the RFGPTS. The Plan must apply to all equipment and systems related to the operation and maintenance of the RFGPTS including, but not limited to, vehicles, track, OCS and signals.

(2) Emergency Preparedness and Response Plan

(a) All RTAs shall have an Emergency Preparedness and Response Plan. The Plan may be combined with the RTA's PTASP, if desired, or prepared as a stand-alone document.

(b) The Emergency Preparedness and Response Plan must:

(A) Include activities and programs in place at the RTA to support planning for emergency preparedness and response;

(B) Detail the assignment of employee responsibilities during an emergency;

(C) Identify the ability to coordinate with external response agencies, including Federal, State, regional, and local officials with roles and responsibilities for emergency preparedness and response in the transit agency's service area.

(D) Describe the training and procedures available to ensure employee proficiency with the emergency preparedness and response procedures and processes at the RTA; and

(E) Describe the process for annually reviewing and updating the Plan, and the process for its annual submission to the SSOA.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0040

RULE TITLE: Monitoring Requirement for Plans

RULE SUMMARY: This rule is amended to include the Public Transportation Agency Safety Plan (PTASP) as a required plan to be monitored, while also removing the System Security Plan from the rule.

RULE TEXT:

(1) Monitoring the PTASP

(a) The SSOA will approve, oversee and enforce the implementation of and compliance with the PTASP.

(b) At least once every three years, either at one time or over a three year period, the SSOA or its contractor shall conduct an audit of the implementation of each RTA's PTASP to verify compliance with, implementation of, and evaluate the effectiveness of, the plan.

(c) Following each on-site audit, the SSOA or its contractor shall prepare a written report of its



findings and recommendations, and the need, if any, for updating or revising the PTASP. If the report identifies deficiencies for which a corrective action plan (CAP) is required, the RTA shall submit a CAP to the SSOA within 30 days after receiving the report, or within a different time period if specified by the SSOA. The CAP must comply with the requirements in OAR 741-060-0072.

(d) The SSOA has primary responsibility for the investigation of any allegation of noncompliance with the PTASP. These responsibilities do not preclude the FTA administrator from exercising his or her authority under 49 U.S.C. 5329 or 49 U.S.C. 5330.

(2) Monitoring the Emergency Preparedness and Response Plan

(a) If the Emergency Preparedness and Response Plan is a stand-alone document, the SSOA may review the operation of each RTA to determine whether the RTA's actual emergency management practices comply with the Plan. If the Emergency Preparedness and Response Plan is part of the PTASP, it will be reviewed with the rest of the PTASP.

(b) At least once every three years, the SSOA or its contractor shall conduct an on-site audit of the implementation of each RTA's Emergency Preparedness and Response Plan to verify compliance with, and evaluate the effectiveness of, the Plan.

(c) Following each on-site review, the SSOA or its contractor shall prepare a written report of its findings and recommendations, and the need, if any, for updating or revising the Plan. If the report identifies deficiencies for which a CAP is required, the RTA shall submit a CAP to the SSOA within 30 days after receiving the report, or within a different time period if specified by the SSOA. The CAP must comply with the requirements in OAR 741-060-0072.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0070

RULE TITLE: Requirements for Internal Reviews

RULE SUMMARY: This rule is amended to reflect new internal review requirements for the Public Transportation Agency Safety Plan (PTASP) and the Emergency Preparedness and Response Plan. The rule also has new requirements for RTA programs that must be included annually in the RTA internal reviews. SSOA has authority to change the required RTA programs subject to annual review and the total number of items to be reviewed.

RULE TEXT:

(1) Annually, the RTA must conduct a minimum of five internal reviews that cover any aspect of the safety of its rail fixed guideway public transportation system to evaluate the implementation, execution, compliance with and effectiveness of its PTASP and its Emergency Preparedness and Response Plan;

(2) The RTA is required to include an internal review of rules compliance activities as outlined in an RTA Competency Management System or Rules Compliance Program. Additionally, the RTA is required to include an internal review of its configuration management activities as outlined in an RTA Configuration Management Plan. The description of these reviews must include:

(a) Identification of departments and functions subject to review;

(b) Responsibility for scheduling reviews;

(c) The process for conducting reviews, including the development of checklists and the issuing of reports and findings resulting from the reviews; and

(d) Tracking the status of findings.

(3) In conjunction with this rule, the RTA may determine the remainder of internal review topics to

evaluate the execution, implementation and effectiveness of its PTASP and Emergency Preparedness and Response Plan.

(4) The SSOA may change the number of required annual internal reviews or the SSOA selected topics required for internal reviews. The SSOA will notify the RTA of changes by December 1st for the following year.

(5) The RTA shall notify the SSOA at least 30 days prior to any internal review. The RTA shall submit to the SSOA copies of the checklists and procedures it will use for the review, along with identification and explanation, if needed, of the area being reviewed at the time of notification.

(6) Each internal review must be performed in accordance with the written checklist by personnel technically qualified to verify compliance and assess the effectiveness of the plan components being reviewed. The reviewers may be organizationally assigned to the unit responsible for the activity being reviewed, but they must be independent from the first line of supervision responsible for performing the activity being reviewed, i.e., the person responsible for the activity being reviewed is not permitted to conduct the internal review nor is their supervisor. It must be someone without primary responsibility for the task. Within 30 days of completion of each internal review the RTA must produce and submit a written report to SSOA detailing the results of the internal review.

(7) Internal reviews must be documented in an annual report that covers the reviews performed and the results of each review in terms of the adequacy and effectiveness of the plans. The annual report for the internal reviews performed during the preceding year must be submitted to the SSOA prior to the 15th of February of each year, pursuant to OAR 741-060-0078(3).

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0072

RULE TITLE: Corrective Action Plan (CAP) Requirements

RULE SUMMARY: The rule is amended to establish a severity threshold for identified hazards that determines if the RTA must develop a corrective action plan (CAP) that requires SSOA oversight. The rule also establishes shorter communication timelines between RTA and SSOA relating to the CAP approval process.

RULE TEXT:

(1) Each RTA that operates a RFGPTS shall prepare a CAP as required by this rule.

(2) Each RTA must develop a CAP for the following:

(a) Hazards identified by the RTA or SSOA as Unacceptable or Undesirable using a Hazard Risk Index of the RTA's choice, as long as SSOA has approved the Risk Index's use.

(b) New and previously unknown hazards that rank as Unacceptable or Undesirable, using an approved Hazard Risk Index, that are identified during an investigation and which cannot be rectified immediately, and any action that will either take additional time or require a change.

(c) Hazards or deficiencies identified through inspections, internal or external safety audits, and reviews, emergency drills or exercises, or reviews of events that the safety risk management process identifies as Unacceptable or Undesirable using a Hazard Risk Index.

(d) Causal and contributing factors identified during an investigation that are determined by the RTA or SSOA to require corrective action(s).

(3) The CAP must describe, specifically, the actions the RTA will take to minimize, control, correct, or eliminate the risks and hazards identified by the CAP, the schedule for taking those actions, and the individuals or departments responsible for taking those actions.

- (4) The RTA, within 30 days, shall submit the CAP to the SSOA for initial review and approval as soon as the need and the corrective action have been identified. The SSOA must review and approve all CAPs before implementation, except in cases where immediate or emergency corrective actions must be taken to ensure immediate safety.
- (5) In cases where immediate or emergency corrective actions must be taken to ensure safety of the system, the RTA shall notify the SSOA immediately of the need for the CAP, and submit the CAP to the SSOA for review and approval as soon as practicable.
- (6) The SSOA will review the CAP and issue written notice approving it, approving it with conditions, or rejecting it, as soon as practicable but not later than 15 days after receipt of the plan. The SSOA may provide verbal approval in certain circumstances, at the SSOA's discretion, but all decisions will be formalized by written notice.
- (7) If the SSOA approves the RTA's CAP with conditions, or rejects it, the RTA shall have 15 days from the date the SSOA issues notice of the conditions or rejection to the RTA to submit a new plan for approval.
- (8) The SSOA may monitor the RTA's progress in carrying out the CAP through unannounced, on-site inspections, or by any other means the SSOA deems necessary or appropriate.
- (9) Upon completion the RTA shall submit verification that the corrective actions within the approved CAP have been implemented.
- (10) The SSOA shall verify implementation and approve closure of the corrective action before the RTA may consider the action closed.
- (11) Each RTA shall maintain a corrective action monitoring log and provide this log to the SSOA on a monthly basis with all updates, comments, new timetables and edits notated and explained.
- (12) The corrective action monitoring log that is to be delivered each month to SSOA must include all corrective actions identified through the provisions under OAR 741-060-0072 and must contain, at a minimum:
  - (a) The source of the corrective action, with identifying information;
  - (b) The classification and risk ranking of the issue needing corrective action;
  - (c) The date the corrective action was determined;
  - (d) A detailed description of the corrective action itself;
  - (e) An estimate of the date upon which the corrective action will be completed;
  - (f) A section for the SSOA initial approval date;
  - (g) The person or department responsible for implementing the corrective action;
  - (h) A section for the SSOA to verify completion of the corrective action;
  - (i) A section for showing the CAP is closed following SSOA verification; and
  - (j) All corrective actions, open or closed.
- (13) Closed corrective actions are to remain on the log after closure and must not drop off the log without agreement and approval from the SSOA, or following the end of the calendar year that follows the year in which the CAP was completed. Without SSOA approval or without the required time limit having occurred, a CAP shall not be removed from the log.
- (14) In any instance in which a safety event on the RTA's RFGPTS is the subject of an investigation by the FTA or NTSB, the SSOA will evaluate whether the findings or recommendations by the FTA require a CAP by the RTA, and if so, the SSOA will order the RTA to develop and carry out a CAP, as above. In the event the FTA orders the RTA to develop a CAP, that CAP shall be developed and carried out as above.
- (15) An SSOA required CAP must be developed within 30 days of notification to the RTA, and submitted to SSOA for approval before carrying out the CAP.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329  
STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

REPEAL: 741-060-0074

RULE TITLE: Inspections

RULE SUMMARY: This rule is repealed from this location and amended/renumbered to 741-060-0098 primarily because the content of the rule did not fit with surrounding rules--it seemed out of place.

RULE TEXT:

- (1) The SSOA has authority to conduct announced and unannounced inspections of an RTA at any time. An RTA must allow access to any SSOA inspector who presents valid identification.
- (2) These inspections may include, but are not limited to, field inspections and observations along the alignment, on and around the RTA's vehicles, infrastructure, at stations, platforms, rail yards, maintenance and other facilities. It may include review of activities, work practices, training, maintenance, safety and security records, rule compliance, and any other documents deemed by the SSOA to be relevant to the safety of the system.
- (3) An inspector will complete an inspection report which will include information regarding whether defects or violations observed in the field necessitate the development of a corrective action plan. When completing the inspection report, the inspector will mark any boxes designating whether a corrective action plan is required or if, in the inspector's opinion, a violation should result in a civil penalty.
- (4) The completed inspection report will be provided to the RTA by the inspector within 24 hours of the inspection.
- (5) The RTA receiving the inspection form marked as requiring a corrective action shall complete the form as directed and return to the inspector within 30 days of receipt. The corrective action plan must be developed in accordance with the process delineated in OAR 741-060-0072.
- (6) If an inspector determines a violation requires the issuance of a civil penalty, that process will be handled as detailed in OAR 741-060-0105.

STATUTORY/OTHER AUTHORITY: ORS 184.616, 184.619, 823.011, 824.045, 824.990

STATUTES/OTHER IMPLEMENTED: 824.045, 183.745

AMEND: 741-060-0076

RULE TITLE: Safety Risk Management Process

RULE SUMMARY: The rule is amended to go from a hazard management process to a safety risk management process as described in the Public Transportation Agency Safety Plan (PTASP).

RULE TEXT:

- (1) The RTA shall develop and document as a part of its PTASP a Safety Risk Management Process to identify, assess, mitigate and resolve hazards for all elements of its public transportation system, including the engineering and construction phase of any new system extension or modification.
- (2) Each RTA that operates a RFGPTS shall use a Hazard Risk Index to determine classification of a hazard in terms of severity and probability. The RTA may develop its own Hazard Risk Index or utilize already established standards. Each RTA shall submit their initial Hazard Risk Index and subsequent revisions to SSOA for review and approval.
- (3) The Safety Risk Management Process must, at a minimum:
  - (a) Establish methods or processes to report, identify and assess the safety risks and consequences of

identified hazards;

- (b) Use, as a source for hazard identification, data and information provided by an oversight authority and the FTA;
- (c) Include an assessment of the consequences and severity of the hazard including existing mitigations and prioritization of the hazards based on the safety risk;
- (d) Establish methods or processes to identify mitigations or strategies necessary as a result of the agency's safety risk assessment to reduce the likelihood and severity of the consequences.
- (e) Develop and implement a safety assurance process to monitor its operations to identify safety risk mitigations that may be ineffective, inappropriate or were not implemented as intended.
- (f) The RTA will report hazard identification and resolution activities in the RTA monthly report to the SSOA. The monthly report must also include hazards identified by the RTA, and those identified by the SSOA as a result of inspections, investigations, audits or other reviews and observations.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0078

RULE TITLE: Reporting Requirements

RULE SUMMARY: This rule is amended to include events to be reported monthly and quarterly by the RTA to the SSOA, such as accidents, incidents and occurrences. The amendment also replaces the System Safety Program Plan with the Public Transportation Agency Safety Plan (PTASP) and removes the security portion for the annual RTA report.

RULE TEXT:

- (1) Monthly Reporting Requirements. Within 30 days of the end of the month being reported, an RTA shall submit to the SSOA a report, which includes:
  - (a) A summary of the number of accidents, incidents and occurrences that occurred during the month including the categorization of any injured party or decedent as public, patron, passenger, or employee;
  - (b) A summary of on-going hazard identification and resolution activities;
  - (c) Documentation of any events that were not otherwise reported that meet the threshold for reporting, including hours of service violations;
  - (d) A corrective action monitoring log each month listing all corrective actions identified through the provisions of OAR 741-060-0072 and containing all information identified in 741-060-0072(12)(a-j).
- (2) Quarterly Reporting Requirements. Each RTA shall establish regular quarterly meetings with SSOA to discuss CAPs, Hazard and Safety Risk Management Activities, Rules Compliance, Internal Review Activities, PTASP Implementation and Compliance, and overall safety of the RFGPTS.
- (3) Annual Reporting Requirements. By February 15 of each year, an RTA's Accountable Executive shall submit to the SSOA a comprehensive written report for review and approval, certifying that the RTA has complied with the provisions of OAR 741-060-0010 through 741-060-0107 for the preceding year and which includes all the documents and information listed below. First, a formal letter of certification signed by the RTA's Accountable Executive certifying to and including and indicating all of the following:
  - (a) A summary of the required annual review, its findings, and the modifications, if any, to the PTASP and the Emergency Preparedness and Response Plan as a result of said review, including any proposed CAPs resulting from the review;
  - (b) A statement that the RTA is in compliance with its PTASP and Emergency Preparedness and

Response Plan; or, if not in compliance, then a detailed explanation of the noncompliance and a description of how such non-compliance will be corrected, with documentation of corrective actions that will be or have been taken to achieve compliance.

(c) Noncompliance findings from its internal audits and reviews, investigations, complaints, or through the Safety Risk Management Process, with documentation of corrective actions that will be or have been taken to achieve compliance, and

(d) A summary of all reportable accidents, incidents, and occurrences, and all hazard and risk analyses conducted as part of the RTA's safety risk management process. This summary must include findings, identified causal and contributing factors, CAPs, mitigations, and all Safety Assurance activities and monitoring.

(e) The written report must document the processes and activities completed as they relate to SMS implementation for that year.

(f) The written report must document internal reviews performed that year along with the results of each review in terms of the adequacy and effectiveness of the plans, including any CAPs, if required, following the review(s).

(g) The written report must include a review of the RTA's activities toward meeting the performance targets based on the safety performance measures for that year established under the National Public Transportation Safety Plan.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-060-0079

RULE TITLE: Recording and Notification Requirements

RULE SUMMARY: This new rule includes the notification, recording and reporting requirements of RTA events to SSOA. The rule allows for SSOA to change notification requirements of any incident or occurrence type based on a safety assessment, identified trend or pattern; such changes will be included in the SSOA Program Standard Notification Matrix.

RULE TEXT:

(1) Event Recording and Notification to SSOA:

(a) Event means an accident, incident or occurrence, as defined in OAR 741-060-0020, and further defined in OAR 741-060-0020(1), for accident; (17) for incident; and (23), for occurrence.

(b) Each RTA must notify the NTD for many events, including all accidents. In doing so, the RTA must include its internal tracking number (such as an ACID or IMMS number) when describing the event to NTD.

(2) Each RTA shall notify the SSOA not more than 2 hours after any of the following events take place:

(a) Any accident as defined in section 741-060-0020(1);

(b) Any incident or occurrence requiring the 2 hour notification as outlined in the SSOA Program Standard notification matrix.

(c) Each RTA that shares track with a general railroad system, and is subject to Federal Railroad Administration reporting requirements, shall notify the SSOA and FTA of any accident that they are required to report to the Federal Railroad Administration.

(d) Notification of an accident required under this section must be made by electronic mail to sso@odot.state.or.us, and, at a minimum, must contain the following information:

(A) Name of reporting agency;

- (B) Reporting agency's internal control number assigned to the accident, if any;
  - (C) Date and time of the report;
  - (D) Date and time of the accident;
  - (E) Specific location of the accident and a brief description of the accident;
  - (F) Employee identification number of employee(s) involved in the accident.
- (e) Within 72 hours of a reported accident, the RTA shall submit to the SSOA a status update of the accident that, at a minimum, contains the following information:
- (A) Hours of Service records for involved employee(s) covering a period of no less than the 72 hours prior to the accident;
  - (B) The number of serious injuries or fatalities resulting from the accident;
  - (C) Causal and contributing factors if determined or suspected; if not yet available, an update on the status of the ongoing investigation; and
  - (D) Any additional information obtained or determined, including, but not limited to, employee and supervisor reports, applicable train orders, special instructions, records, operating conditions, and a description of equipment involved based on information available at that time.
- (3) Incident recording and reporting to SSOA
- (a) The RTA shall report information of any incident to the SSOA in the RTA monthly report, except for those requiring notification not more than 2 hours after the incident, as described in the Program Standard Notification Matrix.
  - (b) The RTA shall categorize incidents by incident type using the definition of incident as defined in 741-060-0020(17).
  - (c) The RTA shall record the following information regarding each incident:
    - (A) Date;
    - (B) Time;
    - (C) Employee number;
    - (D) Location;
    - (E) Brief description of the incident;
    - (F) Agency's internal control number assigned to the incident;
    - (G) Causal or contributing factors determined by the RTA.
  - (d) The RTA shall collect and make available to the SSOA upon request all additional records regarding the incident including, but not limited to, employee and supervisor reports, investigatory reports, applicable train orders, special instructions, and description of equipment involved.
  - (e) The SSOA may require the RTA to perform a hazard analysis utilizing safety risk management activities to determine if any incident requires additional review, study or mitigation. If the RTA or SSOA determines an incident is 'unacceptable' or 'undesirable' using a hazard risk index, more timely reporting may be required.
  - (f) The RTA will be advised by the SSOA of a change in reporting or notification requirements and a change in frequency of reporting 60 days prior to expected implementation of the change at the RTA.
- (4) Occurrence recording and reporting to SSOA
- (a) The RTA shall report information of any occurrence to the SSOA in the RTA's monthly report, except for those requiring notification not more than 2 hours after the occurrence, as described in the Program Standard Notification Matrix.
  - (b) The RTA shall categorize occurrences by occurrence type using the definition of occurrence in 741-060-0020(23).
  - (c) The RTA shall record the following information regarding each occurrence:
    - (A) Date;

- (B) Time;
  - (C) Employee number;
  - (D) Location;
  - (E) Brief description of the occurrence;
  - (F) Agency's internal control number assigned to the occurrence;
  - (G) Causal or contributing factors determined by the RTA.
- (d) The RTA shall collect and make available to SSOA upon request all additional records regarding the occurrence including, but not limited to, employee and supervisor reports, investigatory reports, applicable train orders, special instructions, and description of equipment involved.
- (e) The SSOA may require the RTA to perform a hazard analysis utilizing safety risk management activities to determine if any occurrence requires additional review, study or mitigation. If the RTA or SSOA determines an occurrence is 'unacceptable' or 'undesirable' using a hazard risk index, more timely reporting may be required.
- (f) The RTA will be advised by the SSOA of a change in a reporting requirements and a change in frequency of reporting 60 days prior to expected implementation of the change at the RTA.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0090

RULE TITLE: Requirements for Investigating Accidents

RULE SUMMARY: This rule is amended to reflect requirements in 49 CFR 674 specific to the completion of a final accident investigation report and the subsequent SSOA review and adoption of the report. The update removes 'minor' accident from the rule, as these are now considered incidents, and requires the RTA to provide a final accident investigation report to SSOA within 30 days of the accident; an extension process is outlined.

RULE TEXT:

- (1) Each RTA shall investigate accidents that meet the notification thresholds as set forth in OAR 741-060-0079 (2)(a) and (c). The RTA may use its own staff or a contractor to conduct investigations.
- (2) Upon completion of their investigation, and within 60 days from the date of the accident, the RTA shall submit to the SSOA a final investigation report. The report must describe the investigation activities, identify the factors that caused or contributed to the accident, and set forth a CAP, in compliance with OAR 741-060-0072, as necessary or appropriate. Along with the final investigation report, the RTA shall supply a copy of written records pertaining to the event that have not been provided prior to issuance of the report and make available for review audio and visual records upon request.
- (3) If the RTA cannot complete a final investigation report within 60 days, the RTA must contact the SSOA and request an extension. Extensions will be granted in 15 day increments; only in limited circumstances will the SSOA grant an extension beyond 90 days of the event.
- (4) The SSOA will conduct an independent review of the RTA's investigation activities, its findings, especially those of causal and contributing factors, and ensure that the final investigation report is complete and sufficiently addresses the results of the investigation.
- (5) The SSOA will issue a written report upon completion of its review.
- (6) The SSOA must formally adopt a final investigation report of an accident and transmit the adopted report to the RTA for review and concurrence. If the RTA does not concur with the adopted report, the RTA may submit a written dissent to the report, which the SSOA may include in its report at the



discretion of the SSOA.

(7) The SSOA reserves the right to conduct an independent investigation of any accident or other event at its discretion.

(8) The RTA shall submit to the SSOA for review and approval a copy of all of its accident investigation procedures. Any subsequent modifications and revisions to the standard operating procedure(s) covering RTA accidents must be submitted to the SSOA for review and approval prior to implementation.

(9) The RTA shall cooperate fully during any investigation conducted by the SSOA, FTA or the NTSB. All NTSB findings or recommendations that are adopted by the SSOA shall be implemented by the RTA.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0092

RULE TITLE: Use of Personal Electronic Devices

RULE SUMMARY: This rule is amended to include language requiring the RTA to establish, implement and enforce minimum safety standards for the use of electronic devices. The RTA must provide the standards to the SSOA for review and comment upon creation or revision of the document.

RULE TEXT:

(1) Each RTA shall establish, implement and enforce minimum safety standards for the use of electronic devices. The standards and any subsequent changes must be submitted to the SSOA for review and comment prior to implementation.

(2) An RTA employee or its contractor shall not use any electronic device if that use would interfere with the employee's or another RTA employee's performance of safety-related duties.

(3) An RTA employee or its contractor may use an agency-supplied electronic device only for an authorized business purpose as specified within the RTA standards governing the use of electronic devices. Agency-supplied electronic devices shall not be used if that use would interfere with the employee's or another RTA employee's performance of safety-related duties.

(4) An RTA employee or its contractor must have each personal electronic device turned off, and remove any earpiece prior to performance of safety-related duties. Personal electronic devices are not permitted to be used by an RTA employee or contractor while fouling the track or inside the cab of an RTV.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-060-0098

RULE TITLE: Inspections

RULE SUMMARY: This rule was repealed from its previous location at 741-060-0074 and amended/renumbered to 741-060-0098. The one change to the content of the rule is the removal of security records as an item for SSOA review.

RULE TEXT:

(1) The SSOA may conduct announced and unannounced inspections of an RTA at any time. An RTA must allow access to any SSOA inspector who presents valid identification.

(2) These inspections may include, but are not limited to, field inspections and observations along the

alignment, on and around the RTA's vehicles, infrastructure, at stations, platforms, rail yards, maintenance and other facilities. It may include review of activities, work practices, training, maintenance, safety records, rule compliance, and any other documents deemed by the SSOA to be relevant to the safety of the system.

(3) An inspector will complete an inspection report which will identify defects or violations observed in the field which require development of a corrective action plan. When completing the inspection report, the inspector will mark any boxes designating whether a corrective action plan is required or if, in the inspector's opinion, a violation should result in a civil penalty.

(4) The completed inspection report will be provided to the RTA by the inspector within 24 hours of the inspection.

(5) An RTA receiving an inspection form marked as requiring a corrective action plan shall complete the form as directed and return it to the inspector within 30 days of receipt. The corrective action plan must be developed in accordance with OAR 741-060-0072.

(6) If an inspector determines a violation requires the issuance of a civil penalty, that process will be handled as set forth in OAR 741-060-0105.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0100

RULE TITLE: Hours of Service

RULE SUMMARY: The amendment of this rule adds comingled service as defined in 741-060-0020(4)(a) and (b), and clarifies that allowance for a waiver of hours of service does not apply to planned special events, civic events, sporting events or festivals.

RULE TEXT:

(1) Each RTA shall establish, implement and enforce an hours-of-service policy for its safety sensitive employees. The policy and any subsequent changes must be reviewed and approved by the SSOA.

(2) The policy must establish limitations on the number of daily and monthly hours on duty and a minimum number of hours of rest required between on duty periods. In addition, the policy must prohibit a safety sensitive employee from:

(a) Performing work in excess of the daily maximum hours allowed;

(b) Remaining on duty in excess of the daily maximum hours on duty;

(c) Performing work in excess of the maximum hours of cumulative on-duty time permitted during a calendar month;

(d) Performing work in excess of the maximum consecutive days without a rest day; or

(e) Going on duty until the employee has had the minimum required number of consecutive hours off.

(f) On-duty time shall begin only after the safety sensitive employee has completed at least the minimum number of continuous hours off duty.

(g) In the event of comingled service the safety sensitive employee shall be subject to the most restrictive RTA hours-of-service policy based upon the safety sensitive function(s) being performed.

(3) The policy must contain a process for the RTA's declaration, administration and notification to the SSOA related to a temporary waiving of the hours of service limitations under certain situations. When a situation requiring the extended service of a safety sensitive employee occurs which is both unforeseeable and beyond the control of the RTA, the employee may be on duty in excess of the allotted hours. These situations are limited to severe winter storms, public emergencies such as an earthquake or fire, and accidents or events beyond the control of the RTA. During situations in which

hours of service are temporarily waived, extended service of safety sensitive employees must be limited to the extent practical and monitored by the RTA. Increased service demand or special events including, but not limited to, civic events, festivals (such as the Rose Festival or the Starlight Parade), and sporting events are not considered unforeseeable and beyond the control of the RTA.

(4) The RTA shall maintain hours-of-service records for safety sensitive employees for a period of three years, and upon request, make such records available to the SSOA for review.

(5) The RTA shall notify the SSOA whenever a safety sensitive employee is not in compliance with the hours-of-service policy. The RTA shall notify the SSOA of the non-compliance by electronic mail, and shall do so within 30 days following the end of the calendar month in which it occurred. The notification required under this section must contain:

(a) The employee's identification number;

(b) The employee's work title;

(c) The type of violation;

(d) The schedule of work and rest for the period of 72 hours prior to the infraction; and

(e) A description of the circumstances of the specific violation.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, ORS 823.011, ORS 824.045, ORS 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0101

RULE TITLE: Emergency Suspension of Service

RULE SUMMARY: This rule is amended to reflect that the State Safety Oversight Agency (SSOA) is now part of the ODOT Commerce and Compliance Division, not the ODOT Rail and Public Transit Division.

RULE TEXT:

(1) The SSOA inspector may issue a Notice of Emergency Suspension of Service to an RTA's Accountable Executive in the event the inspector becomes aware of a situation or condition that could result in serious injury or death.

(2) In the event of a determination by the inspector that an emergency suspension of revenue service is necessary, the following protocols will be followed:

(a) Before a Notice is issued, the inspector will prepare a recommendation to the Manager of Rail Safety of the Commerce and Compliance Division of ODOT, concerning the issuance of a Notice directing the RTA to cease revenue service on a particular transit vehicle or line.

(b) The inspector will provide Notice, in the form of a written order, to the RTA's Accountable Executive, and to other RTA staff as appropriate, ordering the RTA to cease revenue service on a particular transit vehicle or line, and identifying the reason(s) for the demand.

(c) Upon receipt of the Notice, the RTA must immediately suspend its revenue service as directed by the Notice, begin to take steps to remediate the reason for the emergency suspension and inform the inspector of the actions taken to remediate the violation, deficiency, or safety issue.

(d) Upon resolution of the violation, deficiency, or safety issue, the RTA shall provide written notice to the inspector indicating that the violation, deficiency, or safety issue has been resolved and the inspector shall verify the resolution to confirm the violation, deficiency, or safety issue has been adequately resolved.

(e) Upon verification of the RTA's remediation, the inspector will provide written approval authorizing the RTA to resume revenue service. In the alternative, if the inspector finds that the violation, deficiency, or safety issue has not been adequately resolved, the inspector will provide

written notice to the RTA indicating that the matter has not been resolved, that the suspension will continue and that additional remediation by the RTA is required.

(3) Any challenge to the notice and order of emergency suspension or appeal of SSOA's determination that the violation, deficiency, or safety issue has not been resolved will be handled as a contested case pursuant to the Oregon Administrative Procedures Act, ORS 183.411 to 183.471.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0102

RULE TITLE: Removal of Equipment from Service

RULE SUMMARY: This rule is amended to reflect that the State Safety Oversight Agency (SSOA) is now part of the ODOT Commerce and Compliance Division, not the ODOT Rail and Public Transit Division.

RULE TEXT:

(1) In the event an inspector determines equipment does not conform to its standards and that it would be unsafe for further service the inspector will issue a Notice for Repair to the RTA's Accountable Executive that the equipment is not in serviceable condition. The Notice will describe the defect or defects that cause the equipment to be in an unserviceable condition.

(a) Before such a Notice is issued, the inspector will prepare a recommendation to the Manager of Rail Safety of the Commerce and Compliance Division of ODOT concerning the issuance of a Notice for Repair removing the equipment from service.

(b) The inspector will provide notice, in the form of a written order, to the RTA's Accountable Executive, and to other RTA staff as appropriate, ordering the RTA to remove the equipment from service, and identifying the reason(s) for the demand.

(c) Upon receipt of the Notice, the transit agency must remove the equipment from service until it has been restored to serviceable condition.

(d) Upon restoration of the equipment, the RTA shall provide written notice to the SSOA indicating that the equipment has been restored to serviceable condition, and the SSOA will inspect the equipment to confirm that the equipment is serviceable.

(e) Until repairs to the equipment have been made to the satisfaction of the SSOA to eliminate any imminent safety hazard or other safety condition, the equipment must remain out of service.

(f) Upon approval of the RTA's restoration, SSOA will provide written approval authorizing the RTA to return the equipment to service. In the alternative, if the SSOA finds that the equipment is not ready to return to service, the SSOA will provide written notice to the RTA indicating the matter has not been resolved, that the removal from service condition shall remain, and that additional restoration by the RTA is required.

(2) Any challenge to the Notice for Repair or appeal of SSOA's determination that the violation, deficiency, or safety issue has not been resolved will be handled as a contested case pursuant to the Oregon Administrative Procedures Act, ORS 183.411 to 183.471.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: 824.045, ORS 183.745, 824.045

AMEND: 741-060-0103

RULE TITLE: Removal of Track from Service

RULE SUMMARY: This rule is amended to reflect that the State Safety Oversight Agency (SSOA) is now part of the ODOT Commerce and Compliance Division, not the ODOT Rail and Public Transit Division.

RULE TEXT:

(1) When an inspector finds track conditions that require the issuance of a Notice for Repair removing the track from service, the inspector will issue the Notice to the RTA's Accountable Executive. The notice will set out the conditions found by the inspector and specify the location of defects on the affected track segment.

(a) Before a Notice is issued, the inspector will prepare a recommendation to the Manager of Rail Safety, ODOT, Commerce and Compliance Division, concerning the issuance of a Special Notice for Repair removing the affected track from service.

(b) The inspector will provide notice, in the form of a Notice for Repair, to the RTA's accountable executive, and to other RTA staff as appropriate, ordering the RTA to remove the track from service, and identifying the reason(s) for the demand.

(c) Upon receipt of the Notice, the transit agency must remove the affected track from service, until it has been restored to serviceable condition.

(d) Upon completion of repairs, the RTA shall notify SSOA, and the SSOA inspector will inspect the track to verify that appropriate and sufficient repairs have been made to the track.

(e) Until repairs to the track have been made to the satisfaction of the SSOA to eliminate any imminent safety hazard or other safety condition, the track must remain out of service.

(f) Upon approval of the RTA's restoration, SSOA will provide written approval authorizing the RTA to return the track to service. In the alternative, if the SSOA finds that the track is not ready to return to service, the SSOA will provide written notice to the RTA indicating the matter has not been resolved, that the removal from service condition shall remain, and that additional restoration by the RTA is required.

(2) Any challenge to the Notice for Repair or appeal of SSOA's determination that the violation, deficiency, or safety issue has not been resolved will be handled as a contested case pursuant to the Oregon Administrative Procedures Act, ORS 183.411 to 183.471.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0105

RULE TITLE: Civil Penalties

RULE SUMMARY: This rule is amended to specify civil penalties apply to 'any RTA,' and removes references to persons or individuals working at an RTA.

RULE TEXT:

(1) In addition to all other penalties provided by law, any RTA that violates or who procures, aids or abets in the violation of federal statutes or rules, state statutes, OAR 741-060-0010 through 741-060-0107, or any order, rule or decision of the SSOA, or the RTA's own safety plan(s), rules, policies, and standard operating procedures, shall be subject to the imposition of a civil penalty of not more than \$1,000 for every such violation, pursuant to ORS 824.990.

(2) Each such violation will be a separate offense and, in the case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission that aids or abets in the

violation is a violation under subsection (1) of this section and subject to the penalty provided in subsection (1) of this section.

(3) Civil penalties imposed under subsection (1) of this section shall be imposed in the manner provided in ORS Chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

AMEND: 741-060-0107

RULE TITLE: Individual Liability

RULE SUMMARY: The amendment of this rule clarifies that civil penalties can be applied to any RTA employee, but only for those individuals who commit a willful violation as defined in section (1)(a) and (b) of the rule.

RULE TEXT:

(1) Civil penalties are applicable to any person, including an RTA manager, supervisor, official, or other employee or agent of the RTA, who fails to comply with the RTA's safety plan(s), rules, policies, and standard operating procedures or state or federal statutes and regulations. However, penalties may be assessed against individuals only for willful violations. Willful violations are those that are:

(a) Intentional, voluntary, and committed with knowledge of the relevant law, or with reckless disregard for whether the act violated the requirements of the law; or

(b) Committed with reckless disregard for whether the act violated the law.

(2) In addition to all other penalties provided by law, every person who willfully violates or who procures, aids or abets in the willful violation of federal statutes or rules, state statutes or administrative rules, or the RTA's own safety plan(s), rules, policies, safety standards, or standard operating procedures, will incur a civil penalty of not more than \$1,000 for every such willful violation, pursuant to ORS 824.990, to be assessed against said person.

(3) Each such willful violation shall be a separate offense and in case of a continuing willful violation, every day's continuance is a separate offense. Every act of commission or omission that aids or abets in the willful violation is a violation under subsection (1) of this section and subject to the penalty provided in subsection (1) of this section.

(4) Civil penalties imposed under subsection (1) of this section shall be imposed in the manner provided in ORS Chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 670, 49 CFR 671, 49 CFR 672, 49 CFR 673, 49 CFR 674, 49 USC 5329

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

REPEAL: 741-060-0110

RULE TITLE: Annual Fee for State Oversight Activities

RULE SUMMARY: This rule is repealed because RTAs covered under Division 60 are not subject to these annual fees/costs. RTAs covered under Division 65 are subject to these fees, and a new rule is being adopted as 741-065-0110.

RULE TEXT:

(1) On or before July 15 of each year, the SSOA shall provide to operators of RFGPTS that do not receive federal financial assistance authorized by 49 U.S.C. Chapter 53, an estimate of costs for the state oversight program described in OAR 741-060-0010 through 741-060-0110 attributable to that

RFGPTS, for the next fiscal year. The estimate will indicate the total excess fees collected, if any, for the prior fiscal year.

(2) By October 15 of each year, or within 90 days of receipt, whichever is later, the RTA shall pay the entire amount, minus the excess fees from the prior fiscal year, or pay the entire amount and request the excess fees be refunded.

STATUTORY/OTHER AUTHORITY: ORS 184.616, 184.619, 823.011, 824.045

STATUTES/OTHER IMPLEMENTED: ORS 824.045

ADOPT: 741-065-0010

RULE TITLE: General Provisions

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division, 65 applies to non-federally funded RTAs. This rule establishes the authorities of SSOA to oversee safety and security of the RFGPTS.

RULE TEXT:

- (1) OAR 741-065-0010 through 741-065-0110 establish a state safety oversight program that applies to all rail transit agencies (RTAs) that own or operate rail fixed guideway public transportation systems (RFGPTS) in Oregon that do not receive federal funds and are not subject to regulation by the Federal Transit Administration (FTA) or the Federal Railroad Administration (FRA).
- (2) The Oregon Department of Transportation (ODOT) is designated as the state safety oversight agency (SSOA) for the State of Oregon, in accordance with ORS 824.045.
- (3) OAR 741-065-0010 through 741-065-0110 apply to all rail transit agencies (RTAs) that own or operate RFGPTS in the State of Oregon and that do not receive federal funds.
- (4) RTAs shall provide written certification of compliance with these rules to the SSOA a minimum of 90 days prior to beginning new revenue operations or revenue operations on an expanded or modified RFGPTS.
- (5) In carrying out its authority, the SSOA may:
  - (a) Monitor, inspect, investigate and enforce the safety of an RFGPTS;
  - (b) Conduct inspections, investigations, employee interviews, audits, examinations, and require testing of equipment, facilities, rolling stock, and operations of the RFGPTS;
  - (c) Review, approve, oversee, audit and enforce the implementation of and compliance with the system safety program plan, the system security plan, the emergency preparedness and response plan and RTA rules, standards, policies and procedures;
  - (d) Make reports and issue directives with respect to the safety of the RFGPTS;
  - (e) Investigate public transportation events and provide guidance to RTAs regarding prevention of events;
  - (f) Take, in conjunction with an event or complaint investigation, or an inspection or audit, or an investigation into a pattern or practice of conduct that negatively affects public safety, the statement of any employee or contractor of an RTA;
  - (g) Require the production of documents, camera footage, audio recordings and data downloaded from electronic devices and recorders from an RTA and its employees or contractors;
  - (h) Prescribe recordkeeping and reporting requirements for an RTA;
  - (i) Enter RTA property to conduct announced and unannounced inspections of equipment, facilities, infrastructure, rolling stock, operations and relevant records;
  - (j) Remove a vehicle, equipment or track segment from service;
  - (k) Suspend operations of the RFGPTS and issue civil penalties against RTAs for non-compliance

with these or transit agency safety rules; and

(L) Issue civil penalties against individual RTA employees only for willful violation of these or transit agency safety rules.

(6) All materials containing sensitive security information as defined in OAR 741-065-0020(35), must be identified as follows:

(a) In the case of paper records containing sensitive security information, a covered person must mark the record by placing the protective marking conspicuously on the top, and the distribution limitation statement on the bottom, of:

(A) The outside of any front and back cover, including a binder cover or folder, if the document has a front and back cover;

(B) Any title page; and

(C) Each page of the document.

(b) The protective marking is: SENSITIVE SECURITY INFORMATION.

(c) The distribution limitation statement is: WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a “need to know,” as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

(d) In the case of non-paper records that contain sensitive security information, including motion picture films, videotape recordings, audio recording, and electronic and magnetic records, a covered person must clearly and conspicuously mark the records with the protective marking and the distribution limitation statement such that the viewer or listener is reasonably likely to see or hear them when obtaining access to the contents of the record.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0020

RULE TITLE: Definitions

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741 division 65 applies to non-federally funded RTAs. This rule provides definitions of events and terms to be utilized by the RTA in communicating with SSOA, specifically accident, incident and occurrence.

RULE TEXT:

As used in OAR 741-065-0010 through 741-065-0110, the following definitions apply:

(1) “Accident” means any event involving a rail transit vehicle (RTV) or occurring on a rail transit-controlled property, involving one or more of the following:

(a) “Fatality,” as defined in section (12) below;

(b) “Serious Injury,” as defined in section (36) below;

(c) “Substantial Damage,” as defined in section (38) below;

(d) All collisions resulting in fatality, serious injury or substantial damage;

(e) “Runaway Train,” as defined in section (30) below;

(f) A collision between an RTV and another RTV;

(g) Evacuation for life safety that constitutes a real or potential danger to any person, including but not



- limited to, a fire, a fuel leak, a vehicle fuel leak, the presence of smoke or noxious fumes, an electrical hazard, a bomb threat, or a suspicious item or other hazard.
- (h) Derailment of an RTV at any time, at any location, whatever the cause.
- (2) “Close call/near miss” means a situation or circumstance that had the potential for safety consequences, but did not result in an adverse safety event.
- (3) “Comingled Service” means:
- (a) Any non-safety sensitive service at the direction of and performed for the RTA that is not separated from safety sensitive service by at least the minimum required number of continuous hours off duty. Such comingled service is counted as on-duty time pursuant to OAR 741-065-0100; or
- (b) Performance of multiple safety sensitive job classifications within the same on-duty time performed for and at the direction of the RTA. Such on duty time will be subject to the most restrictive applicable RTA hours-of-service policy based on the safety sensitive functions performed during the on-duty time.
- (4) “Contractor” means an entity that performs tasks on behalf of a State Safety Oversight Agency, or an RTA, through contract or other agreement.
- (5) “Corrective action plan” (CAP) means a plan developed by an RTA that describes the actions the RTA will take to minimize, control, correct, or eliminate risks and hazards, and the schedule and responsibility for implementing those actions.
- (6) “Covered Person” is any person:
- (a) Who has access to Sensitive Security Information;
- (b) Who is employed by, contracted to, or acting for a covered person, including a grantee of the Department of Homeland Security (DHS) or Department of Transportation (DOT), and persons formerly in such a position;
- (c) For whom a vulnerability assessment has been directed, created, held, funded, or approved by the DOT, DHS, or who has prepared a vulnerability assessment that will be provided to either agency in support of a Federal security program; or
- (d) Who receives Sensitive Security Information.
- (7) “Derailment” means an instance when the wheel of an RTV comes off the head of the rail. It does not include vehicles only equipped with rubber tires designed for highway use.
- (8) “Electronic Device” means:
- (a) An electronic or electrical device used to:
- (b) Conduct oral, written, or visual communication;
- (c) Place or receive a telephone call;
- (d) Send or read an electronic mail or text message;
- (e) Look at pictures;
- (f) Read a book or other written material;
- (g) Play a game;
- (h) Navigate the Internet;
- (i) Navigate the physical world;
- (j) Play, view, or listen to a video;
- (k) Play, view, or listen to a television broadcast;
- (L) Play or listen to a radio broadcast other than a radio broadcast by an RTA or railroad;
- (m) Play or listen to music;
- (n) Execute a computational function; or
- (o) Perform any other function that is not necessary for the health or safety of the person and that entails the risk of distracting the employee or another transit agency employee from a safety-related

task.

(9) “Electronic Device” does NOT mean:

(a) Electronic control systems and information displays within the RTV whether the displays or systems are fixed or portable;

(b) A digital watch whose only purpose and function is as a timepiece;

(c) A medical device consistent with RTA standards for medical fitness for duty; or

(d) An agency supplied fixed or portable radio used only for the purposes of RTA related communications.

(10) “Emergency Preparedness and Response Plan” means a document developed and adopted by the RTA describing its responsibilities and procedures to assure rapid, controlled, and predictable responses to various types of emergencies.

(11) “Event” means an accident, incident or occurrence.

(12) “Fatality” means a death or suicide confirmed within 30 days of a reportable event. Excludes deaths in or on transit property that are a result of illness or other natural causes and criminal homicides or assaults;

(13) “FTA” means the Federal Transit Administration, an agency within the U.S. Department of Transportation.

(14) “Hazard” means any real or potential condition that can cause injury, illness or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a rail fixed guideway public transportation system; or damage to the environment.

(15) “Incident” means an event that involves any of the following:

(a) A personal injury that is not a serious injury;

(b) One or more injuries requiring medical transport;

(c) Non-collision damage to facilities, equipment, rolling stock, or infrastructure that disrupts the operations of a RFGPTS;

(d) Evacuation of an RTV into the right-of-way or other adjacent track, or customer self-evacuation;

(e) Certain low-speed collisions involving an RTV that result in non-serious injury or property damage;

(f) Damage to catenary, third-rail equipment, or any other method of providing power to the RTV, that disrupts transit operations;

(g) Fires that result in a non-serious injury or property damage;

(h) A train stopping due to an obstruction in the tracks/hard stops; or

(i) Most hazardous material spills.

(16) “Individual” means a passenger, patron, employee, contractor, other rail transit facility worker, pedestrian, trespasser, or any person on rail transit-controlled property.

(17) “Investigation” means the process of determining the causal and contributing factors of an accident, incident, occurrence, or hazard, for the purpose of preventing recurrence and mitigating risk.

(18) “NTSB” means the National Transportation Safety Board, an independent federal agency that is charged with determining the probable cause of transportation accidents and promoting transportation safety.

(19) “Occurrence” means an event with:

(a) No personal injury;

(b) Non-collision-related damage to equipment, rolling stock or infrastructure that does not disrupt the operations of an RTA;

(c) Close calls/Near Misses;

(d) Violation of safety rule(s) or safety policies;

- (e) Damage to catenary or third rail equipment that does not disrupt operations;
  - (f) Vandalism, theft or loss; or
  - (g) Unauthorized entry.
- (20) “On-duty time” means the actual time an employee reports for duty to begin a safety sensitive assignment. Such time shall continue until that employee is released or relieved from all responsibility for performing safety sensitive work.
- (21) “Personal Electronic Device” means an electronic device that was not provided to the RTA employee or contractor by the employing RTA for a business purpose.
- (22) “Program standard” means a written document developed and adopted by the SSOA that identifies the processes and procedures that govern the activities of the SSOA, and the processes and procedures an RTA must have in place to comply with the standard.
- (23) “Rail fixed guideway public transportation system” (RFGPTS) means any fixed guideway system that uses rail, is operated for public transportation, is within the jurisdiction of a State, and is not subject to the jurisdiction of the Federal Railroad Administration, or any such system in the process of being designed, engineered or constructed. Rail fixed guideway public transportation systems include, but are not limited to, rapid rail, heavy rail, light rail, monorail, trolley, streetcar, inclined plane, funicular, and automated guideway used primarily for carrying passengers.
- (24) “Rail transit agency” (RTA) means any entity that provides services on a RFGPTS.
- (25) “Rail transit-controlled property” means property that is used by the RTA and includes property owned, leased, or maintained by the RTA.
- (26) “Rail transit vehicle” or RTV means the RTA’s rolling stock used on a rail fixed guideway public transportation system, including but not limited to, passenger and maintenance vehicles.
- (27) “Record” means any writing, drawing, map, recording, tape, film, photograph, or other documentary material by which information is preserved. The term “record” also includes any such documentary material stored electronically.
- (28) “Risk” means the composite of predicted severity and likelihood of the potential effect of a hazard.
- (29) “Risk mitigation” means a method or methods to eliminate or reduce the effects of hazards.
- (30) “Runaway Train,” means an RTV that is no longer under the control of the operator regardless of whether the operator is physically on the vehicle at the same time;
- (31) “Safety” means freedom from harm resulting from unintentional acts or circumstances.
- (32) “Safety sensitive employee” means an individual employed by, contracted by, or a volunteer of, the RTA that:
- (a) Operates an RTV used for carrying passengers;
  - (b) Dispatches or controls the movement of such vehicles;
  - (c) Reports, transmits, receives or delivers orders pertaining to the movement of such vehicles;
  - (d) Is engaged in the installation or maintenance of the on-track vehicles, train control; train protection, or signaling system; or
  - (e) Is designated as such by the RTA.
- (33) “Security” means freedom from harm resulting from intentional acts or circumstances.
- (34) “Security breach” means an event or threat that may endanger life or property or may result in the loss of services or system equipment. For reporting purposes, security breach includes, but may not be limited to:
- (a) Homicide;
  - (b) Rape;
  - (c) Robbery;

- (d) Assault;
  - (e) Bomb threat, or potential bomb threat;
  - (f) Hijack of a rail transit vehicle; or
  - (g) Evacuation due to any security reason or potential threat.
- (35) “Sensitive Security Information” means any information that is exempt from public disclosure pursuant to ORS 192.502, 49 CFR Part 15, effective January 7, 2005, and 49 CFR Part 1520, effective August 18, 2011.
- (36) “Serious injury” means any injury which:
- (a) Requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury occurred;
  - (b) Results in a fracture of any bone (except simple fractures of fingers, toes, or nose);
  - (c) Causes severe hemorrhages, nerve, muscle or tendon damage;
  - (d) Involves any internal organ; or
  - (e) Involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface.
- (37) “State Safety Oversight Agency” (SSOA) means the Oregon Department of Transportation, Commerce and Compliance Division, Rail Safety Section, as designated, to meet the requirements and perform the functions specified by ORS 824.045.
- (38) “Substantial Damage” means any physical damage to transit or non-transit property including vehicles, facilities, equipment, rolling stock or infrastructure that adversely affects the structural strength, performance or operating characteristics of the vehicle, facility, equipment, rolling stock or infrastructure requiring towing, rescue, onsite maintenance or immediate removal prior to safe operation. Substantial damage excludes damage such as cracked windows, dented, bent or small punctured holes in the body, broken lights, mirrors, or removal from service for minor repair or maintenance, testing, or video and event recorder download.
- (39) “System safety program plan” (SSPP) means a document developed and adopted by the RTA describing its safety policies, objectives, responsibilities and procedures.
- (40) “System security plan” (SSP) means a document developed and adopted by the RTA describing its security policies, objectives, responsibilities and procedures.
- (41) “Train” means a single Rail Transit Vehicle (RTV) or two or more RTVs coupled together and propelled as a single operating unit.
- (42) “Trespassing” means unlawful entry onto RTA property.
- (43) “Willful Violation” means an intentional voluntary act committed either with knowledge of the relevant law or reckless disregard for whether the act violated the requirements of the law.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0030

RULE TITLE: Required Plans

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule indicates the RTA safety, security and emergency preparedness and response plans that are required by SSOA. There are no changes in rule content upon carryover from division 60.

RULE TEXT:

(1) System Safety Program Plan Requirements

- (a) RTA with a RFGPTS shall prepare a System Safety Program Plan conforming to the requirements of OAR 741-065-0010 through 741-065-0110.
- (b) The RTA shall review its System Safety Program Plan a minimum of once every three years, unless a substantial change has been made to the plan requiring SSOA review and approval. After each review, and upon a date agreed to between the RTA and the SSOA, the RTA shall submit the plan, along with written documentation and any checklists used for the review, to the SSOA for review and approval. When the RTA submits the plan and review materials to the SSOA, the RTA shall include a cover letter identifying any changes made to the plan. If the SSOA determines that additional changes to the plan are necessary, the SSOA shall advise the RTA in writing of the changes required. The RTA shall have 30 days to revise its plan to comply with modifications required by the SSOA.
- (c) The System Safety Program Plan must describe the method used to maintain effective communications and coordination with SSOA staff, and must contain:
  - (A) An organization chart of the RTA;
  - (B) A description of employee training and certification on the System Safety Program Plan process for employees in safety-related positions;
  - (C) Identification of the facilities and equipment subject to regular safety-related inspection and testing;
  - (D) A description of the process for developing and managing CAPs as described in OAR 741-065-0072;
  - (E) A description of the process used by the RTA to ensure that planned and scheduled internal safety reviews are performed to evaluate compliance with the System Safety Program Plan, pursuant to OAR 741-065-0070;
  - (F) The method and schedule for tri-annual submission of the System Safety Program Plan, the System Security Plan and the Emergency Preparedness and Response Plan to the SSOA;
  - (G) The process for facilitating on-site safety reviews by the SSOA;
  - (H) A description of the safety program for employees and contractors that incorporates the applicable state and local requirements, including:
    - (i) Safety requirements that employees and contractors must follow when working on, or in close proximity to, RTA property; and
    - (ii) Processes for ensuring the employees and contractors know and follow the requirements.
  - (I) A description of the hazard management process used by the RTA, pursuant to OAR 741-065-0076;
  - (J) A description of the process used by the RTA to perform accident notification, investigation and reporting, pursuant to OAR 741-065-0078 and OAR 741-065-0090.
  - (K) A description of the process used by the RTA to ensure that safety concerns are addressed in modifications to existing systems, vehicles, and equipment, including any system extensions, rehabilitations or new starts, if applicable; and
  - (L) A description or reference to the applicable hours of service policy pursuant to OAR 741-065-0100.
  - (M) A description of the drug and alcohol-testing program, or reference to an existing program, that applies to its safety sensitive employees. The program, if contained in a separate document from the plan, must be submitted to the SSOA for review.
  - (N) A description of the process whereby the plan is reviewed and approved by the board of directors or other equivalent authority of the RTA; and
  - (O) A sufficiently explicit process for hazard management, with adequate means of risk mitigation for

the RFGPTS.

(d) The RTA shall implement and comply with the System Safety Program Plan for all aspects of its RFGPTS.

(2) System Security Plan Requirements

(a) Each RTA with a RFGPTS shall prepare a System Security Plan conforming to the requirements of OAR 741-065-0010 through 741-065-0110.

(b) The System Security Plan must be developed and maintained separately from the System Safety Program Plan.

(c) The RTA shall review its System Security Plan a minimum of once every three years, unless a significant change has been made to the plan requiring SSOA review and approval. After each review, and upon a date agreed to by the RTA and the SSOA, the RTA shall submit the plan, along with written documentation and any checklists used for the review, to the SSOA for review and approval. When the RTA submits the plan and review materials to the SSOA, it shall include a cover letter identifying any changes made to the plan. If the SSOA determines that additional changes to the plan are necessary, the SSOA shall advise the RTA in writing of the changes required. The RTA shall have 30 days to revise its plan to comply with any modifications required by the SSOA.

(d) The RTA shall implement and comply with the System Security Plan for all operations of its RFGPTS. The RTA shall document within the plans its process for managing threats and vulnerabilities during operations and for major projects, extensions, new vehicles and equipment, including integration with the safety certification process.

(e) The RTA shall not make its System Security Plan available to the public.

(f) The System Security Plan must include the process the RTA used to develop the plan.

(g) The System Security Plan must include measures to control and track all access to the plan and any of its contents. At a minimum, the RTA must number each page, place a unique identifying mark on each copy of the plan and maintain a log showing the whereabouts of each copy of the plan. The plan must include the process the RTA uses to make the plan available for SSOA review and approval. Any information contained therein determined to be sensitive security information, as defined in OAR 741-065-0020(35), must be marked as specified in OAR 741-065-0010(6).

(h) The System Security Plan must:

(A) Identify the policies, goals, and objectives for the security program endorsed by the RTA's General Manager; and

(B) Identify controls in place that address the personal security of passengers and employees

(3) Emergency Preparedness and Response Plan

(a) All RTAs shall have an Emergency Preparedness and Response Plan. The plan may be combined with the transit agency's System Safety Program Plan, if desired, or prepared as a stand-alone document.

(b) The Emergency Preparedness and Response Plan must:

(A) Include activities and programs in place at the RTA to support planning for emergency preparedness and response;

(B) Detail the assignment of employee responsibilities during an emergency;

(C) Identify the ability to coordinate with external response agencies, including Federal, State, regional, and local officials with roles and responsibilities for emergency preparedness and response in the transit agency's service area;

(D) Describe the training and procedures available to ensure employee proficiency; and

(E) Describe the process for annually reviewing and updating the plan, and the process for its annual submission to the SSOA.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0040

RULE TITLE: Monitoring Requirements for Plans

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule covers SSOA monitoring of the RTA safety, security and emergency preparedness and response plans. There are no changes in rule content upon carryover from division 60.

RULE TEXT:

(1) Monitoring the System Safety Program Plan

(a) The SSOA will review, approve, oversee and enforce the implementation of and compliance with the System Safety Program Plan.

(b) At least once every three years, either at one time or over a three year period, the SSOA or its contractor shall conduct an audit of the implementation of each RTA's System Safety Program Plan to verify compliance with, and evaluate the effectiveness of, the plan.

(c) Following each on-site audit, the SSOA 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 implementation of the plan. If the report identifies deficiencies for which a corrective action plan (CAP) is required, the RTA shall submit a CAP to the SSOA within 30 days after receiving the report, or within a different time period if specified by the SSOA. The CAP must comply with the requirements in OAR 741-065-0072.

(2) Monitoring the System Security Plan

(a) The SSOA or its contractor may investigate and review the operation of each RTA to determine whether the RTA's actual security practices comply with its System Security Plan.

(b) At least once every three years, the SSOA or its contractor shall conduct an on-site review of the implementation of each RTA's System Security Plan to verify compliance with, and evaluate the effectiveness of, the plan.

(c) Following each on-site review, the SSOA or its contractor shall prepare a written report of its findings and recommendations, and the need, if any, for updating the plan or revising implementation of the plan. If the report identifies deficiencies for which a CAP is required, the RTA shall submit a CAP to the SSOA within 30 days after receiving the report, or within a different time period if specified by the SSOA. The CAP must comply with the requirements in OAR 741-065-0072.

(d) Sensitive security information, as defined in OAR 741-065-0020(35), may not be disseminated or publicly disclosed unless required by ORS 192.410 to 192.505.

(3) Monitoring the Emergency Preparedness and Response Plan

(a) The SSOA or its contractor may investigate and review the operation of each RTA to determine whether the RTA's actual emergency management practices comply with its Emergency Preparedness and Response Plan.

(b) At least once every three years, the SSOA or its contractor shall conduct an on-site review of the implementation of each RTA's Emergency Preparedness and Response Plan to verify compliance with, and evaluate the effectiveness of, the plan.

(c) Following each on-site review, the SSOA or its contractor shall prepare a written report of its findings and recommendations, and the need, if any, for updating or revising the plan. If the report

identifies deficiencies for which a CAP is required, the RTA shall submit a CAP to the SSOA within 30 days after receiving the report, or within a different time period if specified by the SSOA. The CAP must comply with the requirements in OAR 741-065-0072.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0070

RULE TITLE: Requirements for Internal Reviews

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines the process the RTA must follow when conducting internal audits of the safety, security and emergency preparedness response plans. There are no changes in rule content upon carryover from division 60.

RULE TEXT:

- (1) Over a three year period, the RTA must conduct on-going internal reviews that cover all the elements its safety, security and emergency preparedness and response plans to evaluate the compliance and measure the effectiveness of the plans.
- (2) The internal reviews referenced in the plans must described the process used by the RTA to ensure that planned and scheduled internal reviews are performed to evaluate compliance with the plans. The description must include:
  - (a) Identification of departments and functions subject to review;
  - (b) Responsibility for scheduling reviews;
  - (c) The process for conducting reviews, including the development of checklists and the issuing of reports and findings resulting from the reviews; and
  - (d) Tracking the status of findings.
- (3) The RTA shall notify the SSOA at least 30 days prior to any planned internal reviews. The RTA shall submit to the SSOA copies of the checklists and procedures it will use for the review, at the time of notification.
- (4) Each internal review must be performed in accordance with the written checklist by personnel technically qualified to verify compliance and assess the effectiveness of the plan components being reviewed. The reviewers may be organizationally assigned to the unit responsible for the activity being reviewed, but they must be independent from the first line of supervision responsible for performing the activity being reviewed, i.e., the person responsible for the activity being reviewed is not permitted to conduct the internal review nor is their supervisor. It must be someone without primary responsibility for the task. Within 30 days of completion of each internal review the RTA must produce and submit a written report to SSOA detailing the results of the internal review.
- (5) Internal reviews must be documented in an annual report that covers the reviews performed and the results of each review in terms of the adequacy and effectiveness of the plans. The annual report for the internal reviews performed during the preceding year must be submitted to the SSOA prior to the 15th of February of each year, pursuant to OAR 741-065-0078(3).
- (6) Each RTA shall conduct an annual review of its System Safety Program Plan, System Security Plan and Emergency Preparedness and Response Plan.
- (7) Each RTA shall provide to the SSOA the process and timeline for conducting an annual review and update of the plan.



STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0072

RULE TITLE: Corrective Action Plan (CAP) Requirements

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines the RTA process for identifying a need for CAPS and the subsequent SSOA process for overseeing CAPS until closure. There are no changes in rule content upon carryover from division 60.

RULE TEXT:

- (1) Each RTA that operates a RFGPTS shall prepare a CAP as required by this rule.
- (2) Each RTA must develop a CAP for the following:
  - (a) Causal and contributing factors identified during an investigation that are determined by the RTA or SSOA to require corrective action(s); or
  - (b) Hazards or deficiencies identified through internal or external safety and security audits, observations or reviews, accidents, incidents, occurrences, or through the hazard management process.
- (3) The CAP must describe, specifically, the actions the RTA will take to minimize, control, correct, or eliminate the risks and hazards identified by the CAP, the schedule for taking those actions, and the individuals or departments responsible for taking those actions.
- (4) The RTA shall submit the CAP to the SSOA for review and approval as soon as the need and the corrective action have been identified, but before the corrective action has been carried out, except in cases where immediate or emergency corrective actions must be taken to ensure immediate safety.
- (5) In cases where immediate or emergency corrective actions must be taken to ensure immediate safety of the system, the RTA shall notify the SSOA immediately of the need for the CAP, and thereafter submit the CAP to the SSOA for review and approval as soon as practicable.
- (6) The SSOA will review the CAP and issue written notice approving it, approving it with conditions, or rejecting it, as soon as practicable after receipt of the plan. The SSOA may provide verbal approval in certain circumstances, at the SSOA's discretion, but all decisions will be formalized by written notice.
- (7) If the SSOA approves the RTA's CAP with conditions, or rejects it, the RTA shall have 30 days from the date the SSOA issues such notice to request that the SSOA reconsider its decision or for permission to submit a new plan for approval.
- (8) The SSOA may monitor the RTA's progress in carrying out the CAP through unannounced, on-site inspections, or by any other means the SSOA deems necessary or appropriate.
- (9) Upon completion the RTA shall submit verification that the corrective actions within the approved CAP have been implemented.
- (10) The SSOA shall verify implementation and approve closure of the corrective action before the RTA may consider the action closed.
- (11) Each RTA shall maintain a corrective action monitoring log and provide to the SSOA status reports every quarter regarding individual corrective action plans and a quarterly update to its corrective action monitoring log.
- (12) The corrective action monitoring log that is to be delivered quarterly to the SSOA must include a list of all corrective actions arising from any source. The corrective action log must contain, at a minimum:

- (a) The source of the corrective action, with identifying information;
  - (b) The classification and risk ranking of the issue needing corrective action;
  - (c) The date the corrective action was determined;
  - (d) A detailed description of the corrective action itself;
  - (e) An estimate of the date upon which the corrective action will be completed;
  - (f) A section for the SSOA initial approval date;
  - (g) The person or department responsible for implementing the corrective action;
  - (h) A section for the SSOA to verify completion of the corrective action;
  - (i) A section for showing the CAP is closed following SSOA verification; and
  - (j) All corrective actions, open or closed.
- (13) An SSOA required CAP must be developed within 30 days of notification to the RTA, and submitted to SSOA for approval before carrying out the CAP.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0074

RULE TITLE: Inspections

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines SSOA authority for inspections to be conducted at the RTA and SSOA notification of defects to the RTA. There are no changes in rule content upon carryover from division 60.

RULE TEXT:

- (1) The SSOA has authority to conduct announced and unannounced inspections of an RTA at any time. An RTA must allow access to any SSOA inspector who presents valid identification.
- (2) These inspections may include, but are not limited to, field inspections and observations along the alignment, on and around the RTA's vehicles, infrastructure, at stations, platforms, rail yards, maintenance and other facilities. It may include review of activities, work practices, training, maintenance, safety and security records, rule compliance, and any other documents deemed by the SSOA to be relevant to the safety of the system.
- (3) An inspector will complete an inspection report which will include information regarding whether defects or violations observed in the field necessitate the development of a corrective action plan. When completing the inspection report, the inspector will mark any boxes designating whether a corrective action plan is required or if, in the inspector's opinion, a violation should result in a civil penalty.
- (4) The completed inspection report will be provided to the RTA by the inspector within 24 hours of the inspection.
- (5) The RTA receiving the inspection form marked as requiring a corrective action shall complete the form as directed and return to the inspector within 30 days of receipt. The corrective action plan must be developed in accordance with the process delineated in OAR 741-065-0072.
- (6) If an inspector determines a violation requires the issuance of a civil penalty, that process will be handled as detailed in OAR 741-065-0105.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0076

RULE TITLE: Hazard Management Process

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines requirements for development of a RTA hazard management process. There are no changes to rule content upon carryover from division 60.

RULE TEXT:

- (1) The RTA shall develop and document as a part of its System Safety Program Plan a process to identify and evaluate safety risks and resolve hazards throughout all elements of the system, including the engineering and construction phase of any system, and including any hazards resulting from subsequent system extensions or modifications, operational changes, or other changes.
- (2) The hazard management process must, at a minimum:
  - (a) Define the RTA's approach to safety risk identification and evaluation, hazard management and the implementation of an integrated system-wide hazard resolution process;
  - (b) Specify the sources of, and the mechanisms to support, the on-going identification of hazards and safety risks;
  - (c) Define the process by which the identified hazard(s) and risks will be evaluated and prioritized for elimination or control;
  - (d) Detail the strategies designed to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;
  - (e) Identify the mechanism used to track through to resolution the identified hazard(s);
  - (f) Define minimum thresholds for the notification and reporting of hazard(s) to the SSOA;
  - (g) Specify the process by which the RTA will provide on-going reporting of hazard resolution activities to the SSOA.

(3) The RTA shall report any other hazards, as determined by the SSOA, resulting from inspections, investigations, audits or other reviews or observations that the SSOA determines to be a safety issue.

STATUTORY/OTHER AUTHORITY: ORS 184.619, ORS 192.502, ORS 823.011, 824.045, ORS 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0078

RULE TITLE: Reporting Requirements

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines requirements for RTA reports, annual reports and RTA notification protocols for events. There are changes to rule content including: frequency of RTA reports; definition of accident; status update changes.

RULE TEXT:

- (1) Quarterly Reporting Requirements. Within 15 days following the end of each quarter, the RTA shall prepare summaries of information on the number of accidents and identified hazards that occurred within that quarter. Once every quarter, the RTA must submit these summaries to the SSOA, along with:
  - (a) The final report of any investigation completed that quarter;
  - (b) Documentation of any events that were not otherwise reported that meet the threshold for

reporting, such as hours of service violations;

(c) A corrective action monitoring log listing all corrective actions arising from any source. The corrective action log shall contain:

- (A) The source of the corrective action, with identifying information;
- (B) The date the corrective action was determined;
- (C) A detailed description of the corrective action itself;
- (D) An estimate of the date upon which the corrective action will be completed;
- (E) A section for the SSOA to approve each corrective action;
- (F) The person or department responsible for implementing the corrective action;
- (G) A section for the SSOA to verify completion of the corrective action; and
- (H) All corrective actions, closed or open.

(d) Closed corrective actions are to remain on the log after closure and do not drop off the log without agreement and approval from the SSOA, or following the end of the following calendar year, whichever first occurs. Open actions must remain on the log until closed and verified by the SSOA.

(2) Annual Reporting Requirements. By February 15 of each year, each RTA shall submit to the SSOA a written report for review and approval. The report shall include a formal letter of certification signed by the RTA's General Manager certifying that the RTA is in compliance with OARs 741-065-0010 through 741-065-0110, and also is in compliance with:

(a) Its System Safety Program Plan (SSPP), its System Security Plan (SSP) and its Emergency Preparedness and Response Plan; or, if not in compliance, then:

(A) A detailed explanation of the noncompliance and a description of how such non-compliance will be corrected, with documentation of corrective actions that will be or have been taken to achieve compliance;

(B) Any noncompliance findings from its internal audits and reviews, with documentation of corrective actions that will be or have been taken to achieve compliance; and

(C) A summary of all accidents and hazards determined for the preceding calendar year.

(b) The written report shall also include:

(A) A summary of the hazard management process activities and all internal reviews conducted, with findings and updated corrective action plans, if any; and

(B) A summary of the required annual review and the modifications, if any, to its System Safety Program Plan, System Security Plan and Emergency Preparedness and Response Plan.

(C) The security portion of the annual report must comply with the sensitive security information management requirements of the RTA's system security plan, as applicable.

(c) The written report must document all internal reviews performed that year along with the results of each review in terms of the adequacy and effectiveness of the plans, including any CAPs, if required following the review(s).

(3) Reporting Requirements for Notification of Accidents, Security Breaches and Hazards

(a) Each rail transit agency shall notify the SSOA no later than two hours after any accident or security breach takes place.

(b) Each RTA that shares track with a general railroad system, and is subject to Federal Railroad Administration reporting requirements, shall immediately notify the SSOA of any event which they are required to report to the Federal Railroad Administration.

(c) Each RTA shall notify the SSOA of any hazard that meets the threshold for notification and reporting of such hazards as defined in OAR 741-065-0076, no later than 24 hours after identification.

(d) Notice required under sections (a), (b) and (c) of this section must be made by electronic mail to sso@odot.state.or.us, and, at a minimum, must contain the following information:

- (A) Name of reporting agency;
  - (B) Reporting agency's internal control number assigned to the event, if any;
  - (C) Date and time of the report;
  - (D) Date and time of the accident, security breach, or identified hazard; and
  - (E) Specific location and brief description of the accident, security breach or identified hazard.
- (e) Within 72 hours after any accident or security breach, the RTA shall submit to the SSOA a status update of the event that, at a minimum, contains the following information:
- (A) Employee identification number of employee(s) involved in the event;
  - (B) Hours of service records for involved employee(s) covering a period of no less than 72 hours prior to the event;
  - (C) The number of injuries and fatalities resulting from the event; and
  - (D) Probable causal and contributing factors if determined or suspected; if not yet available, an update on the status of the ongoing investigation into the causal and contributing factors must be provided.
  - (E) Any additional information obtained or determined, including, but not limited to, employee and supervisor reports, applicable train orders, special instructions, operating conditions, and description of equipment involved based on information available at that time.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0090

RULE TITLE: Requirements for Investigating Accidents

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines the RTA accident investigation process requirements and subsequent SSOA review and approval of accident investigation reports. There are changes in rule content upon carryover from division 60 including: term 'minor accident' is deleted and incident and occurrence are added.

RULE TEXT:

- (1) Each RTA shall investigate accidents that meet the notification threshold as set forth in OAR 741-065-0078(4). The RTA may use its own staff or a contractor to conduct investigations.
- (2) Upon completion of their accident investigation, the RTA shall submit to the SSOA a draft investigation report that includes the causal and contributing factors to the accident, and sets forth a correction action plan, in compliance with OAR 741-065-0072, as necessary or appropriate;
- (3) For incidents or occurrences that the SSOA requires be investigated, the investigation may consist of an operator report, supervisor reports, and a review of hours of service records. These documents in combination may be considered the draft investigation report, subject to SSOA review and approval.
- (4) If the SSOA concurs with the findings of the draft investigation report, it will be deemed a final report and the SSOA will formally adopt it in writing. If the SSOA does not concur with the findings of the draft investigation report, it may conduct its own investigation or transmit its dissent to the findings and negotiate with the RTA until a resolution on the findings is reached.
- (5) The SSOA reserves the right to conduct an independent investigation of any accident at its discretion.
- (6) The RTA shall submit to the SSOA for review and approval a copy of its accident investigation procedures. Any subsequent modifications and revisions to the procedure(s) covering RTA accidents must be submitted to the SSOA for review and approval prior to implementation.

(7) The RTA shall cooperate fully during any investigation conducted by the SSOA, FTA or the NTSB. All NTSB findings or recommendations that are adopted by the SSOA shall be implemented by the RTA.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0092

RULE TITLE: Use of Personal Electronic Devices

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule provides guidelines that allow for or prohibit use of personal electronic devices while performing safety sensitive duties at the RTA. There are no changes in rule content upon carryover from division 60.

RULE TEXT:

(1) An RTA employee or its contractor may use an agency-supplied electronic device only for an authorized business purpose as specified by the RTA in writing.

(2) An RTA employee or its contractor shall not use a personal electronic device while performing safety sensitive duties or if that use would interfere with that employee's or another RTA employee's performance of safety sensitive duties.

(3) An RTA employee or its contractor must have each personal electronic device turned off, with any earpiece removed from the ear. Personal electronic device will not be permitted to be used by an RTA employee while in the cab of a rail transit vehicle.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, ORS 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0094

RULE TITLE: Minimum Safety Standards

RULE SUMMARY: RTAs must establish minimum safety standards at RTA.

RULE TEXT:

Each RTA shall establish, implement and enforce minimum safety standards for the construction and maintenance of track and equipment. The standards and any subsequent changes must be submitted to the SSOA prior to implementation.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0100

RULE TITLE: Hours of Service

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines hours of service rules as applied to RTAs and notification from RTA to SSOA for discovered non-compliance. There are no changes in rule content upon carryover from division 60.

RULE TEXT:

- (1) Each RTA shall establish, implement and enforce an hours-of-service policy for its safety sensitive employees. The policy and any subsequent changes must be reviewed and approved by the SSOA.
- (2) The policy must prohibit a safety sensitive employee from:
  - (a) Performing work in excess of the daily maximum hours allowed;
  - (b) Remaining on duty in excess of the daily maximum hours on duty;
  - (c) Performing work in excess of the maximum hours of cumulative on-duty time permitted during a calendar month;
  - (d) Performing work in excess of the maximum consecutive days without a rest day; or
  - (e) Going on duty until the employee has had the minimum required number of consecutive hours off.
  - (f) The policy must contain a process governing the declaration, administration and notification of the SSOA related to a temporary waiving of the hours of service limitations under certain situations. When a situation requiring the extended service of a safety sensitive employee occurs which is both unforeseeable and beyond the control of the RTA, the employee may be on duty in excess of the allotted hours. These situations are limited to severe winter storms, public emergencies like an earthquake or fire, and accidents or security breaches beyond the control of the RTA. During situations in which hours of service are temporarily waived, extended service of safety sensitive employees must be limited to the extent practical and monitored by the RTA.
  - (g) In the event of comingled service the safety sensitive employee shall be subject to the most restrictive RTA hours-of-service policy based upon the safety sensitive function(s) being performed.
- (3) The RTA shall maintain hours-of-service records for safety sensitive employees for a period of three years, and upon request, make such records available to the SSOA for review.
- (4) The RTA shall notify the SSOA whenever a safety sensitive employee is not in compliance with the hours-of-service policy. The RTA shall notify the SSOA of the non-compliance by electronic mail, and shall do so within 30 days following the end of the calendar month in which it occurred. The notification required under this section must contain:
  - (a) The employee's identification number;
  - (b) The employee's work title;
  - (c) The type of violation;
  - (d) The schedule of work and rest for the period of 72 hours prior to the infraction; and
  - (e) A description of the circumstances of the specific violation.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0101

RULE TITLE: Emergency Suspension of Service

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. The rule outlines the SSOA inspection process covering defects requiring immediate suspension of service and steps the RTA and SSOA take to resume service. There are changes in rule content upon carryover from division 60 including reassignment of SSOA from Rail and Public Transit Division to Commerce and Compliance Division.

RULE TEXT:

- (1) The SSOA inspector may issue a Notice of Emergency Suspension of Service to an RTA in the event the inspector becomes aware of a situation or condition that could result in serious injury or

death.

(2) In the event of a determination by the inspector that an emergency suspension of revenue service is necessary, the following protocols will be followed:

- (a) Before a Notice of Emergency Suspension of Service is issued, the inspector will prepare a recommendation to the Manager of Rail Safety of the Commerce and Compliance Division of ODOT concerning the issuance of a Special Notice directing the RTA to cease revenue service on a particular transit vehicle or line, or system-wide.
- (b) The inspector will provide notice, in the form of a written order, to the RTA's General Manager and to other RTA staff as appropriate, ordering the RTA to cease revenue service on a particular transit vehicle or line, or system-wide, and identifying the reason(s) for the demand.
- (c) Upon receipt of the Notice, the RTA must immediately suspend its revenue service as directed by the Notice, begin to take steps to remediate the reason for the emergency suspension and inform the inspector of the actions taken to remediate the violation, deficiency, or safety issue.
- (d) Upon resolution of the violation, deficiency, or safety issue, the RTA shall provide written notice to the inspector indicating that the violation, deficiency, or safety issue has been resolved and the inspector shall verify the resolution to confirm the violation, deficiency, or safety issue has been adequately resolved.
- (e) Upon verification of the RTA's remediation, the inspector will provide written approval authorizing the RTA to resume revenue service. In the alternative, if the inspector finds that the violation, deficiency, or safety issue has not been adequately resolved, the inspector will provide written notice to the RTA indicating that the matter has not been resolved, that the suspension will continue and that additional remediation by the RTA is required.

(3) Any challenge to the notice and order of emergency suspension or appeal of SSOA's determination that the violation, deficiency, or safety issue has not been resolved will be handled as a contested case pursuant to the Oregon Administrative Procedures Act, ORS 183.411 to 183.471.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0102

RULE TITLE: Removal of Equipment from Service

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines the SSOA inspection process covering defects requiring removal of equipment from service and steps the RTA and SSOA take to return equipment to use. There are changes in rule content upon carryover from division 60 including reassignment of SSOA from Rail and Public Transit Division to Commerce and Compliance Division.

RULE TEXT:

(1) In the event an inspector determines equipment does not conform to its standards and that it would be unsafe for further service, the inspector will issue a Notice for Repair to the RTA that the equipment is not in serviceable condition. The Notice will describe the defect or defects that cause the equipment to be in an unserviceable condition.

(a) Before such a Notice is issued, the inspector will prepare a recommendation to the Manager of Rail Safety of the Commerce and Compliance Division of ODOT concerning the issuance of a Notice for Repair removing the equipment from service.



- (b) The inspector will provide notice, in the form of a written order, to the RTA's General Manager, and to other RTA staff as appropriate, ordering the RTA to remove the equipment from service, and identifying the reason(s) for the demand.
  - (c) Upon receipt of the Notice, the transit agency must remove the equipment from service until it has been restored to serviceable condition.
  - (d) Upon restoration of the equipment, the RTA shall provide written notice to the SSOA indicating that the equipment has been restored to serviceable condition, and the SSOA will inspect the equipment to confirm that the equipment is serviceable.
  - (e) Until repairs to the equipment have been made to the satisfaction of the SSOA to eliminate any imminent safety hazard or other safety condition, the equipment must remain out of service.
  - (f) Upon approval of the RTA's restoration, SSOA will provide written approval authorizing the RTA to return the equipment to service. In the alternative, if the SSOA finds that the equipment is not ready to return to service, the SSOA will provide written notice to the RTA indicating the matter has not been resolved, that the removal from service condition shall remain, and that additional restoration by the RTA is required.
- (2) Any challenge to the Notice for Repair or appeal of SSOA's determination that the violation, deficiency, or safety issue has not been resolved will be handled as a contested case pursuant to the Oregon Administrative Procedures Act, ORS 183.411 to 183.471.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0103

RULE TITLE: Removal of Track from Service

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines the SSOA inspection process covering defects requiring removal of track from service and steps the RTA and SSOA take to resume use of track. There are changes in rule content upon carryover from division 60 including reassignment of SSOA from Rail and Public Transit Division to Commerce and Compliance Division.

RULE TEXT:

- (1) When an inspector finds track conditions that require the issuance of a Notice for Repair removing the track from service, the inspector will issue the Notice to the RTA's General Manager. The notice will set out the conditions found by the inspector and specify the location of defects on the affected track segment.
  - (a) Before a Notice is issued, the inspector will prepare a recommendation to the Manager of Rail Safety of the Commerce and Compliance Division of ODOT, concerning the issuance of a Special Notice for Repair removing the affected track from service.
  - (b) The inspector will provide notice, in the form of a Notice for Repair, to the RTA's General Manager, and to other RTA staff as appropriate, ordering the RTA to remove the track from service, and identifying the reason(s) for the demand.
  - (c) Upon receipt of the Notice, the transit agency must remove the affected track from service, until it has been restored to serviceable condition.
  - (d) Upon completion of repairs, the RTA shall notify SSOA, and the SSOA inspector will inspect the track to verify that appropriate and sufficient repairs have been made to the track.

(e) Until repairs to the track have been made to the satisfaction of the SSOA to eliminate any imminent safety hazard or other safety condition, the track must remain out of service.

(f) Upon approval of the RTA's restoration, SSOA will provide written approval authorizing the RTA to return the track to service. In the alternative, if the SSOA finds that the track is not ready to return to service, the SSOA will provide written notice to the RTA's General Manager indicating the matter has not been resolved, that the removal from service condition shall remain, and that additional restoration by the RTA is required.

(2) Any challenge to the Notice for Repair or appeal of SSOA's determination that the violation, deficiency, or safety issue has not been resolved will be handled as a contested case pursuant to the Oregon Administrative Procedures Act, ORS 183.411 to 183.471.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0105

RULE TITLE: Civil Penalties

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines the civil penalty process and fines levied against the RTA by the SSOA for non-compliance. There are no changes in rule content upon carryover from division 60.

RULE TEXT:

(1) In addition to all other penalties provided by law, any RTA that violates or who procures, aids or abets in the willful violation of federal statutes or rules, state statutes, OAR 741-065-0010 through 741-065-0110, or any order, rule or decision of the SSOA, or the RTA's own safety plan(s), security plan(s), rules, policies, and standard operating procedures, shall be subject to the imposition of a civil penalty of not more than \$1,000 for every such violation, pursuant to ORS 824.990.

(2) Civil penalties are applicable to any person, including an RTA manager, supervisor, official, or other employee or agent of the RTA, who fails to comply with the RTA's safety plan(s), security plan(s), rules, policies, and standard operating procedures or state or federal statutes and regulations. However, penalties may be assessed against individuals only for willful violations. Willful violations are those that are:

(a) Intentional, voluntary, and committed with knowledge of the relevant law, or with reckless disregard for whether the act violated the requirements of the law; or

(b) Committed with reckless disregard for whether the act violated the law. Each such violation will be a separate offense and, in the case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission that aids or abets in the violation is a violation under subsection (1) of this section and subject to the penalty provided in subsection (1) of this section.

(3) Civil penalties imposed under subsection (1) of this section shall be imposed in the manner provided in ORS Chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0107

RULE TITLE: Individual Liability

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule clarifies that civil penalties can be applied to any RTA employee, but only for those individuals who commit willful violations as defined in section (1)(a) and (b) of the rule.

RULE TEXT:

- (1) Civil penalties are applicable to any person, including an RTA manager, supervisor, official, or other employee or agent of the RTA, who fails to comply with the RTA's safety plan(s), rules, policies, and standard operating procedures or state or federal statutes and regulations. However, penalties may be assessed against individuals only for willful violations. Willful violations are those that are:
  - (a) Intentional, voluntary, and committed with knowledge of the relevant law, or with reckless disregard for whether the act violated the requirements of the law; or
  - (b) Committed with reckless disregard for whether the act violated the law.
- (2) In addition to all other penalties provided by law, every person who willfully violates or who procures, aids or abets in the willful violation of federal statutes or rules, state statutes or administrative rules, or the RTA's own safety plan(s), security plan(s), rules, policies, safety standards, or standard operating procedures, will incur a civil penalty of not more than \$1,000 per day for every such willful violation, pursuant to ORS 824.990, to be assessed against said person.
- (3) Each such willful violation shall be a separate offense and in case of a continuing willful violation, every day's continuance is a separate offense. Every act of commission or omission that aids or abets in the willful violation is a violation under subsection (1) of this section and subject to the penalty provided in subsection (1) of this section.
- (4) Civil penalties imposed under subsection (1) of this section shall be imposed in the manner provided in ORS Chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045

ADOPT: 741-065-0110

RULE TITLE: Annual Fee for State Oversight Activities

RULE SUMMARY: Historically, chapter 741, division 60 covered all RTAs subject to oversight of the Oregon State Safety Oversight program. As amended, chapter 741, division 60 applies to federally funded RTAs, and 741, division 65 applies to non-federally funded RTAs. This rule outlines the annual fee assessed by SSOA to the RTA. There are no changes in rule content upon carryover from division 60.

RULE TEXT:

- (1) On or before July 15 of each year, the SSOA shall provide to operators of RFGPTS that do not receive federal financial assistance authorized by 49 U.S.C. Chapter 53, an estimate of costs for the state oversight program described in OAR 741-065-0010 through 741-065-0110 attributable to that RFGPTS, for the next fiscal year. The estimate will indicate the total excess fees collected, if any, for the prior fiscal year.
- (2) By October 15 of each year, or within 90 days of receipt, whichever is later, the RTA shall pay the entire amount, minus the excess fees from the prior fiscal year, or pay the entire amount and request

the excess fees be refunded.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.502, 823.011, 824.045, 824.990, 49 CFR 15, 49 CFR 1520

STATUTES/OTHER IMPLEMENTED: ORS 183.745, 824.045