

Chapter OCT 3

RAILROADS

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Note: Chapter TC 3 was renumbered to be chapter OCT 3 effective September 1, 1986.

**OCT 3.001 Definition.** For purposes of this chapter:

- (1) "Office" means office of the commissioner of transportation.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.01 Direct charges — general.** (1) The direct charges referred to in this chapter are the charges made by the office pursuant to s. 195.60 (1), Stats.

(2) Direct charges are made for expenses attributable to the performance of the office's regulatory duties which are directly and strictly attributable to the investigations known as cost cases. Direct charges shall include such expenses as travel and salary, but shall not include overhead expenses, whether or not specifically identifiable with an investigation. Expenses not directly charged shall be considered in the remainder assessment.

- (3) The supporting records for charges made are:

(a) Monthly time distribution sheets for the time of office staff members. These consist of summaries of charges made, derived from weekly time sheets which record activities performed each day according to docket number.

(b) Monthly travel expense accounts for the travel expenses of office staff members. These charges are made from these expense accounts and are itemized each day according to docket number.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (1) and (2), r. and recr. (3), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.02 Direct charges for salaries.** (1) The maximum daily charge against any one investigation is 8 hours per day.

(2) Charges are made on an hourly basis, computed to the nearest half-hour. The hourly charge for each employe is determined by adding to the individual's base hourly salary rate the cost of time off with pay and the cost of fringe benefits.

(3) (a) The time of all persons engaged directly on an investigation, whether in the offices or on the property of the railroad, on the office

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premises, or elsewhere, including travel time, shall be charged. There shall be included, in addition to time spent on the investigation, or in rendering the service, the time devoted to preparing summaries and exhibits and writing and typing reports; also, the time spent in hearings.

(b) If it is necessary to visit the offices of another state government department, any other government department or organization, state or federal, or any private organization to obtain information for the investigation, the time thus spent shall be charged against the railroad being investigated. If an investigation is made of affiliated interests, this likewise shall be charged against the railroad, the investigation of which necessitates the examination of the affiliate.

(4) No direct charges are made for the time of the commissioner and staff acting in a supervisory capacity.

(5) If on a trip, actual time reported on cases equals or exceeds the standard 8 hours per day and traveling time is likewise reported for that day, such traveling time is disregarded in making charges. However, if actual time reported on cases be less than the standard per day and traveling time also be reported, the difference between the time on cases and the standard is regarded as traveling time against those cases, provided that such difference does not exceed the hours of travel reported. The total of traveling time computed by such method for an entire trip is then prorated over those cases reported on that trip on the basis of the aggregate actual time reported for each and limited for each investigation by the standard day, except where over-time hours as provided in this chapter have been included in the chargeable time.

(6) When the office finds it necessary to engage the services of people, not members of its regular staff, for consulting advice or for particular projects arising out of investigations, the cost to the office of such services shall be chargeable to the railroad under investigation.

**History:** Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (2), (3) (a), (4) and (6), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.03 Direct charges for traveling expense.** (1) All traveling expenses incurred in an investigation or in rendering services shall be charged subject to subs. (2) and (3):

(2) Traveling expenses for an entire trip are prorated among the cases reported on that trip on the basis of the aggregate actual hours (without the proration of traveling time) reported for each, and limited for each investigation by the standard day except where overtime hours as provided in this chapter have been included in the chargeable time. The underlying principle is that the expenses follow time spent.

(3) No direct charges are made for the traveling expenses of:

(a) The commissioner.

(b) Staff acting in a supervisory capacity.

**History:** Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (3) (a), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.04 Procedure for billing and collection of direct charges.** (1) (a) The office shall make an express finding of necessity for an investigation of the books, accounts, practices and activities, or an appraisal of the Register, August, 1986, No. 368

property of any railroad, and of the intention to assess costs incurred by the office.

(b) Notice of finding and notice of the existence of the resulting statutory duty to pay the expenses reasonably attributable to the contemplated investigation or appraisal are served upon the affected railroad by the office.

(2) The usual practice of the commission is to render monthly statements. Itemization is made on the bill to indicate the names of the commission's employes engaged on the work, the hours expended, their hourly rates, special charges and the amount of the charges. In a joint investigation or where the charges in one investigation are to be divided between 2 or more railroads, such charges shall be assessed, unless otherwise ordered, in proportion to their respective gross operating revenues for the preceding calendar year from the kind of service involved.

(3) Each railroad shall file with the commission on or before April 1 of each year a verified statement of its gross operating revenues for the preceding calendar year, exclusive of those derived from the transportation of mail, derived from intrastate operations in the state of Wisconsin, showing the amounts for each operating revenue-account as prescribed by the current classification of accounts for railroads of the interstate commerce commission.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (1), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.05 Forms — general.** The forms named in this chapter are listed by title, and may be obtained from the Office of the Commissioner of Transportation, 4802 Sheboygan Avenue, P.O. Box 7957, Madison, Wisconsin 53707-7957.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.06 List of forms.** The following forms may be obtained from the office:

- (1) Wisconsin Annual Report Class I Railroads.
- (2) Wisconsin Annual Report Class II Railroads.
- (3) Wisconsin Annual Report Class III Railroads.
- (4) Quarterly report of freight commodity statistics.
- (5) Gross operating revenues derived from intrastate operations in the state of Wisconsin for each calendar year. Required of railroads as defined in s. 195.02, Stats.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (intro.) and (1) to (3), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.07 Number crossings.** All railroads operating in the state of Wisconsin over public highway grade crossings are required to number the crossings in this state and submit the information to the office.

History: 1-2-56; am. Register, October, 1982, No. 322, eff. 11-1-82; am. Register, August, 1986, No. 368, eff. 9-1-86.

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**OCT 3.08 Crossing changes.** All railroads shall submit to the office an annual statement of changes at railroad-highway crossings including openings, closings, separations, and changes in protective devices.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.09 Plans.** (1) All railroads operating in Wisconsin shall submit to the office for its approval detailed circuit plans and a description of the operations and functions to be performed by signals for any proposed highway-railroad grade crossing signal installation and for proposed changes in existing installations.

(2) The railroads shall keep a copy of the circuit plans in the instrument cases for the signal installations.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (1), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.10 Maintenance.** (1) The railroads shall inspect and test each signal installation in the state at least once a month and record the dates of inspection and maintenance activities in the instrument cases.

(2) The railroads shall repair and replace signal equipment and components as is necessary to maintain proper operation of the signals and shall periodically clean the signal lenses and roundels and paint, if required, the signal backgrounds and hoods.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82.

**OCT 3.11 Maintenance reimbursement.** (1) The cost of maintenance for the purpose of reimbursement pursuant to s. 195.28, Stats., shall be based on a Signal Unit System Method using the following unit designations:

DESCRIPTION	UNIT VALUE	QUANTITY	UNITS
Non-coded track circuit.	2	_____	_____
Superimposed circuit on track circuit.	2	_____	_____
Auxiliary track instrument for train detection	2	_____	_____
Highway grade crossing signal, wig-wag or flashing light type (one pair of flashing lights) with or without bell or reflectorized signs, per mast.	2	_____	_____
Additional pair of flashing lights.	1	_____	_____
Each gate mechanism, automatic.	4	_____	_____
Switch circuit controller, signal or highway crossing protection.	1	_____	_____
Grade crossing predictor.	8	_____	_____
Movement detector.	6	_____	_____
Standby movement detector.	2	_____	_____
<b>TOTAL RELATIVE UNITS</b> _____			

(2) All railroads operating in Wisconsin shall submit to the office by June 1, 1983, a simple drawing delineating the installation with a tabulation and description of the signal units involved for each railroad-highway crossing signal installation in operation in the state on January 1, 1983.

(a) The drawing and tabulation shall contain identification of the crossing including federal AAR-DOT number, Wis. crossing number, county and town or municipality in Wisconsin, and the highway or street involved.

(b) When the component as stated under description functions jointly for more than one crossing or as a part of the railroad block signal system, the appropriate fractional quantity shall be applied to the crossing.

(3) All signal installations placed in service after January 1, 1983, including alteration of existing installations which change the number of signal units, shall be reported to the office by the railroads with a drawing and unit tabulation which includes the date the installation or alteration was completed.

(4) All railroads operating in Wisconsin shall submit to the office by June 1, 1983, the maintenance costs for calendar year 1982 for all railroad-highway crossing signal installations in Wisconsin as drawn from accounting records maintained in accordance with the Interstate Commerce Commission Uniform System of Accounts including assignable labor and material additives and a statement of the total signal units involved in such costs. In some cases, units and costs in adjoining states may be included where cost reports cannot readily be separated. This information shall be provided for each fourth year anniversary after 1982.

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(5) Using the cost information and lists of signal units, the office shall determine the average dollar value per unit maintenance cost in Wisconsin for crossing signal installations for the year 1982.

(6) The average dollar value per unit applied to the total units per crossing shall be the maintenance cost for the crossing and the basis for paying railroad claims for maintenance pursuant to s. 195.28, Stats.

(7) For the interim years when actual cost information is not provided, the average dollar value per unit will be adjusted in accordance with the published AAR Indexes of Railroad Material Prices and Wage Rates, Railroads of Class I, Western District.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (2) (intro.) and (3) to (6), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.12 Initial reports.** Upon occurrence of any accident-incident in Wisconsin involving a railroad, resulting in death, substantial damages or significant hazard to the public, a report shall be made by the railroad involved to the office as soon as practicable but not later than within 24 hours of the occurrence or before 4 p.m. of the first business day following the occurrence.

History: Renum. from PSC 72.02 (1) and am. Register, October, 1982, No. 322, eff. 11-1-82; am. Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.13 Monthly reports.** The federal railroad administration in accordance with 49 CFR 225 Accident/Incident Reporting Standards requires each railroad company to submit a monthly report of railroad accidents-incidents. Each railroad company operating in Wisconsin shall submit to the office a copy of these applicable to its Wisconsin operation on or before the filing date as required by federal regulation.

History: Renum. from PSC 72.03 and am. Register, October, 1982, No. 322, eff. 11-1-82; am. Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.14 Railroad clearances—general.** Clearance standards established herein shall apply to each railroad operating in Wisconsin and lands adjacent to all railroad tracks with respect to new construction or reconstruction of tracks and structures and other conditions after the effective date of this chapter. Construction, installation and operation of electric power, communication and signal lines and equipment shall comply with the Wisconsin State Electrical Code designated as ch. PSC 114. The exemptions referred to in this rule are not applicable to requirements of the Wisconsin State Electrical Code.

History: Cr. Register, February, 1965, No. 110, eff. 3-1-65; renum. from PSC 82.01 and am. Register, October, 1982, No. 322, eff. 11-1-82.

**OCT 3.15 Clearances.** (1) The horizontal clearance between the centers of adjacent and parallel tracks shall not be less than 14 feet.

(2) Except for railroad passenger platforms and railroad freight platforms, no structure shall be constructed or reconstructed on either side of any railroad track less than 8 feet 6 inches from the track center line; and a clear and unobstructed working space shall be maintained on both sides of any railroad track, not less than 8 feet 6 inches from the track center line.

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(3) Platforms at passenger stations used for loading and unloading passengers, baggage, mail, and express may be constructed and maintained as follows:

(a) Such a platform which is not higher than 4 inches above the top of the rail shall be not less than 4 feet 6 inches from the center line of the adjacent track;

(b) Such a platform which is more than 4 inches but not higher than 8 inches above the top of the rail shall be not less than 5 feet 1 inch from the center line of the adjacent track;

(c) Such a platform which is more than 8 inches but not higher than 1 foot 9 inches above the top of the rail shall be not less than 6 feet from the center line of the adjacent track;

(d) Such a platform which is higher than 1 foot 9 inches above the top of the rail of a main track shall be not less than 8 feet from the center line thereof.

(4) Railroad freight platforms not more than 5 feet in height above the top of rail may be constructed with a clearance of not less than 6 feet 4 inches from the track center line of railroad tracks other than main line, yard lead, or industrial lead tracks, provided a clear and unobstructed working space of not less than 8 feet 6 inches from the track center line is maintained on the side of the track opposite such platforms.

(5) The minimum clearances standards in subs. (1) through (4) are for straight tracks and these minimum clearances shall be increased 1 inch for each degree of curvature when the track or tracks are curved.

(6) No structure which is less than 22 feet above the top of rail shall be constructed or reconstructed over a railroad track or over the area 8 feet 6 inches from the track center line on each side of a railroad track.

History: Renum. from PSC 82.02, 82.03, 82.04 and 82.05 and am. (5), Register, October, 1982, No. 322, eff. 11-1-82.

**OCT 3.16 Exemptions.** (1) Materials used by a railroad for repair or construction just prior to and during the period such work is in progress, and railroad structures and facilities necessary for the operations of trains for which it is impracticable to provide the minimum clearances, are exempted from the provisions of s. OCT 3.15 (2) to (5).

(2) Upon written application and after public hearing, the office may grant exemption from the clearances requirements of this chapter upon a finding that the clearances proposed does not imperil life or limb and that public interest requires or permits such clearance. The findings and order granting exemption shall be in writing and shall contain complete provisions and requirements as to the clearances to be maintained.

(3) Wherever any overhead structure or any part thereof is less than 22 feet above the top of the rail, every railroad corporation or industry shall maintain telltales of suitable construction installed over each track at such distances from the obstruction as shall provide adequate security against accident; except that if the office finds that the installation of a telltale at any particular place would be impracticable or would result in any increased hazard to either the public or an employe and that either or both such factors outweigh the safety benefit which would result from the installation of a telltale, the office may enter an order providing an

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exemption from this subsection. Such exemption shall be ordered by the office only after written application and public hearing.

History: Cr. Register, February, 1965, No. 110, eff. 3-1-65; renun. from PSC 82.06, Register, October, 1982, No. 322, eff. 11-1-82; am. Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.17 Motor vehicles—general.** (1) OCT 3.17 prescribes minimum standards for the transportation of employes by motor vehicles to and from their places of employment and during the course of their employment and shall be observed by all railroads in their operations within the state of Wisconsin.

(2) The intent of the rules will be realized (a) by applying the rules in full to all new motor vehicles and related items or equipment when placed in service, (b) by applying all except s. OCT 3.18 (1), (2), (3), (5), and (6) to existing vehicles, (c) by applying all rules where there is major reconstruction of the vehicles and to those parts used as replacements in the partial reconstruction of a vehicle, (d) these regulations shall not apply to taxicabs or other vehicles licensed by competent authority to transport the public, and used by a railroad to transport its employes.

(3) All motor vehicles and related items or equipment shall be designed for use in the manner contemplated in these rules.

(4) Motor vehicles and related items or equipment shall be cleaned when necessary and inspected at such intervals as experience has shown to be necessary. Any motor vehicle or related items or equipment found or known to be defective so as to endanger life or property shall be promptly repaired or taken out of service until repairs can be made. Repairs shall be made by competent persons. Compartments for employes shall be kept in a reasonably clean and sanitary condition, and employes shall cooperate in maintaining such conditions.

(5) It is recognized that these regulations cannot cover all contingencies, and accordingly the office may, on application or on its own motion, modify, grant exceptions to, or prescribe higher standards than the rules contained in this chapter.

(6) In times of emergency, if approved vehicles are not available, vehicles not complying with these regulations may be used. An emergency shall be considered as existing when rail traffic has been stopped or disrupted (or where there is a threat of stoppage or disruption) because of derailment, accident, disastrous storm, fire, flood or other similar condition. Ordinarily weather conditions including usual storms especially in winter shall not be considered to call for emergency operation.

(7) As used in these rules, unless the context requires otherwise:

(a) "Employe" means an individual employed for any period in any work for which he is compensated by a rail common carrier.

(b) "Employer" means a railroad common carrier who employs one or more employes.

(c) "Heating facilities" means a hot water radiator type system, or any other generally acceptable form of heating which does not emit nauseous fumes or gases into the vehicle.

(d) "Material" means all items that can be lawfully transported by motor vehicles.



(e) "Motor vehicle" means any vehicle which is self-propelled and designed primarily for highway use, and which may or may not be equipped with retractable flange wheels for operation on railroad tracks.

(f) "Rear compartment" means a crew cab which may be a continuation of the driver's cab, providing additional seating facilities, or an auxiliary cab located directly behind the driver's cab.

(g) "Seating facilities" means seats provided for workers other than the driver.

(h) "Tools" means hand or power-driven instruments and machines used in the efficient prosecution of a trade or calling.

History: Cr. Register, September, 1970, No. 177, eff. 10-1-70; renum. from PSC 85.01 (2), 85.02, 85.03 (2) to (6), (9) to (11), and am. (1), Register, October, 1982, No. 322, eff. 11-1-82; am. (5), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 3.18 Rear compartments.** (1) A rear compartment may be either a continuation cab or an auxiliary cab.

(2) A continuation cab is a standard crew cab as designed and furnished by the motor vehicle manufacturer or as constructed by a motor vehicle body company which is a continuance of the driver's cab, of equal strength, all welded construction. In this type of cab, no communication system between the rear compartment and the driver is required.

(3) An auxiliary cab is a rear compartment separated from the driver's cab. It shall be of metal construction (including top), welded or riveted, with interior lining, equipped with adequate padded seats and back rests firmly secured in place. It shall be fastened directly to the frame of the motor vehicle and not to the surface of the bed of the vehicle. When necessary, it shall be equipped with steps and hand holds.

(4) A system of communication between an auxiliary cab and the driver shall be provided and said communication system must be kept in good working condition at all times.

(5) Both types of cabs shall be provided with a heating system for cold weather and a ventilation system for hot weather, providing heat and ventilation substantially equal to that provided for the driver. Exhaust systems shall be so designed as to prevent exhaust fumes from entering the rear compartment. Heavy-duty hinge-type doors shall be provided, equipped with automotive-type safety latches. All windows shall be of safety glass, as required by law. Where a compartment is equipped with only one door, at least one window shall be of the "knock-out" type and of sufficient size to provide emergency exit for the employees. All vehicles shall have adequate seating capacity for the number of employees carried.

(6) Canvas-covered truck beds or shelters built of wood, plywood or light-gauge metal on the bed of the truck shall not be considered as a rear compartment. The vehicles shall be especially built or modified for transporting employees in compartments separate from space used to transport tools, material and equipment for the employees.

History: Cr. Register, September, 1970, No. 177, eff. 10-1-77; renum. from PSC 85.04, Register, October, 1982, No. 322, eff. 11-1-82.

**OCT 3.19 Safety equipment required.** (1) All vehicles used for the transportation of employees shall carry an adequate first-aid kit suitable for the number of employees transported.

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(2) Each vehicle used to transport employes shall be equipped with either a 2-pound dry chemical type, or a 4-pound carbon dioxide type fire extinguisher approved by the Underwriters Laboratories, Inc. These are minimum capacities. Toxic vaporizing liquid type fire extinguishers, such as those containing carbon tetrachloride or chlorobromomethane, will not be permitted.

(3) Racks, boxes, holsters or equivalent means shall be provided and arranged so employes will not be endangered by tools or equipment being transported, loaded or removed.

(4) To prevent materials being transported on flatbed trucks from shifting against cab or rear compartment, a suitable front endgate must be provided.

History: Cr. Register, September, 1970, No. 177, eff. 10-1-70; renum. from PSC 85.05, Register, October, 1982, No. 322, eff. 11-1-82.

**OCT 3.20 Drivers, operation, employe's duties.** (1) Only authorized, experienced, competent, qualified and licensed drivers not less than 18 years of age who satisfy the minimum standards for drivers established by the division of motor vehicles shall be permitted to operate vehicles used to transport employes.

(2) The motor vehicles shall not carry railroad passengers or non-employes, except in an emergency. Persons having a work contact with the railroad or governmental inspection personnel may be carried.

(3) When the driver's compartment is separate from the compartment used to transport employes, the signals adopted for use on the communication system shall be simple and understood by both driver and employes.

(4) No vehicle shall be loaded beyond its safe carrying capacity, or beyond its licensed capacity when in use on public streets or highways. No motor vehicle shall be driven if it is so loaded, or if the load thereon is so distributed or so inadequately secured as to prevent safe operation.

(5) No motor vehicle shall be driven when anything in, on or attached to the vehicle obscures the driver's view ahead or to either side, or interferes with the free movement of his arms or legs, or prevents his free and ready access to his controls and emergency equipment, or prevents the free and ready exit of any person from the vehicle.

(6) All vehicles transporting employes shall observe all motor vehicle laws of the state.

(7) No explosives (except flagging equipment) shall be hauled on any vehicle while it is engaged in transporting employes. This rule shall not prohibit the driver and one qualified powder man from riding in a vehicle in which explosives are being hauled.

(8) Gasoline and other low flash point liquids shall not be hauled in vehicles transporting employes except when in department of industry, labor and human relations approved safety containers or in containers meeting with the current specifications of the United States department of transportation. Such containers shall be carried in a safe, suitable location outside the passenger compartment as far from the compartment as possible, firmly secured to prevent shifting, and where they will not block exit from the vehicle.

(9) Occupants shall not ride with any part of their bodies extending out over the side of the vehicle.

(10) Employes wearing equipment which might injure a fellow employ (spurs, exposed sharp tools, and the like) shall remove such equipment before entering any vehicle in which employes are being transported.

(11) Scuffling or horseplay while riding in any vehicle is prohibited.

(12) Any hazardous condition or defect of a motor vehicle or unsafe practice of the driver or employes riding in vehicles used to transport employes shall be reported in writing to the employer or supervisor as soon as possible by any employe having knowledge of such conditions.

History: Cr. Register, September, 1970, No. 177, eff. 10-1-70; renum. from PSC 85.06, Register, October, 1982, No. 322, eff. 11-1-82.