

BEFORE THE CORPORATION COMMISSION OF THE STATE OF
OKLAHOMA

IN THE MATTER OF A PERMANENT)
RULEMAKING OF THE)
OKLAHOMA CORPORATION)
COMMISSION AMENDING)
OAC 165:32, RAILROADS.)

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CORPORATION COMMISSION
OF OKLAHOMA

CHAPTER 32. RAILROADS

SUBCHAPTER 1. GENERAL PROVISIONS

165:32-1-3. Definitions

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Audit" means an examination of records, source documents and any other information of a regulated entity; or a review performed by staff as a result of a complaint or prior enforcement actions taken.

"Commission" means the Oklahoma Corporation Commission.

"Continuous direction" means the movement of a locomotive engine or engines, coupled with or without cars, over any public rail highway crossing in any direction and maintaining that direction until the crossing is unoccupied.

"Crossing Surface" refers to a combination of material such as treated timbers, reinforced concrete panels, and composite or rubber tiles that are combined with rail components such as the flangeway and flange filler, to produce a surface that makes it possible for vehicles to cross over the railroad track in comfort and safety.

"Noxious plants" means poison ivy, poison oak, or poison sumac, at any height or maturity.

"Public crossing" means a location where the tracks cross a road which is under the jurisdiction of and maintained by a public authority and which is open to public travel.

"Private Crossing" means a location where a physical crossing is present but the road does not meet the conditions for a public crossing. Private crossings usually restrict public use by an agreement which the railroad has with the property owner by gates or similar barriers.

"Rank weeds" means all vegetation which can conceal or harbor rodents, refuse or vermin.

"Sight rectangle" means a rectangle which would have a beginning point from the center of the main track and the center point of the grade crossing extending along the center of the street or roadway approach for a distance of ~~50~~ fifty feet (50') or to the railroad right-of-way property line, whichever is less, then extend along the property line for a distance of ~~250~~ two hundred fifty feet (250') in either direction from the original beginning point.

"Sight triangle" means a triangle which would have a beginning point from the center point of the main track and the center point of the grade crossing extending along the center of the street or roadway approach for a distance of ~~50~~ fifty feet (50') or to the railroad right-of-way property line, whichever is less, then extend at an angle until arriving at a point on the center of the main track ~~250~~ two hundred fifty feet (250') from the original beginning point.

"Thickets" means any dense growth, briar patch, or wild shrubbery having stems or trunks one inch (1") or less in diameter.

"Trash" means, but is not limited to, refuse, litter, leaves, paper, combustible materials, offal, rubbish, waste, debris, and useless or unused or uncared for matter of all kinds.

165:32-1-8. Blocking crossings

(a) Railroads or other persons, firms, or corporations operating over tracks within the State of Oklahoma shall not block vehicle traffic at any railroad grade crossing, for a period of time in excess of ten (10) minutes, except if the train is moving in a continuous forward or backward direction, or if the train is stopped for an emergency condition, including an accident, derailment, critical mechanical failure, track or bridge washout, storm, flood, or other emergency situation.

(b) A one (1) time exception of up to, but not exceeding, ten (10) additional minutes shall be

authorized under the following conditions:

- (1) When a train and its crew, operating under the rules of the Federal Railroad Administration (FRA), is unable to complete a switching maneuver while setting out or picking up rail cars within the ten (10) minutes as set forth in subsection (a).
- (2) When a train is stopped to allow the passage of a second train and the stopped train has exhausted the ten (10) minutes as set forth in subsection (a), if the arrival of the second train is eminent and separation and coupling of the stopped train would result in further unnecessary blocking of motor vehicle or pedestrian traffic.
- (3) When a train is stopped for a red train signal.
- (c) When a train is cut or separated to prevent blocking of motor vehicle traffic at a public crossing, the time required for recoupling a train and performing air tests as required by the FRA will not be considered a violation of this Section.
- (d) If a train is cut or separated for vehicular traffic flow and the remaining segment is blocking a crossing(s), it will not be considered a violation of this Section.
- (e) Every railroad shall be operated in such a manner as to minimize obstruction of emergency vehicles at public highway grade crossings.
- (f) A compliance audit may be conducted by the Commission when a railroad or other persons, firms, or corporations operating over tracks within the State of Oklahoma causes a train or other equipment to block a crossing for greater than ten (10) minutes and will be based upon, but not limited to, the following:
 - (1) Frequency of blocked crossings.
 - (2) Pattern of blocked crossings in a single rail corridor.
 - (3) Blocked crossings in excess of ten (10) minutes but less than twenty (20) minutes without justification, as found in (b) of this subsection.
 - (4) Blocked crossings for over twenty (20) minutes for any reason.
 - (5) A blocked crossing complaint brought by a county or municipal government entity.

165:32-1-10. Fences

- (a) A property owner owning land adjacent to a railroad track in the State of Oklahoma may make application for a lawful fence on a form provided by the Commission, which application shall include the following:
 - (1) Signature of property owner.
 - (2) General description of property, by Section, Township and Range, if possible.
 - (3) Description of the property line or portion thereof to be fenced, including measurements or railroad mile pole locations, if known.
 - (4) Statement as to whether all other sides of the property owned by the landowner are fenced and capable of retaining livestock.
 - (5) Statement as to whether livestock is being raised on the property to be fenced, and if so, whether for commercial or personal purposes.
 - (6) Attached to the application shall be a copy of written communication transmitted on behalf of the landowner to the railroad requesting the railroad to furnish the landowner a lawful fence.
- (b) No application for a lawful fence shall be filed with the Commission until forty-five (45) days have expired from the date of the written notice from the landowner to the railroad requesting a lawful fence.
- (c) When an accurate and complete application for a lawful fence has been received from a landowner, the Transportation Division shall provide a copy of the application to the affected Railroad's Manager accompanied by a letter requesting a lawful fence within sixty (60) days.

(d) If the lawful fence is not completed when the sixty (60) day period expires, the Transportation Division ~~shall~~ may file an ~~application for a fencing construction order~~ enforcement action for contempt of Commission rules and order the building of a lawful fence. ~~When the Commission enters an Order for a lawful fence, the Order shall be mailed to the railroad by certified mail. Upon receipt of the Order, the railroad shall be given (60) days within which to comply with the Order, or appeal the Order pursuant to Commission rules.~~

(e) A landowner may request dismissal of the application for a lawful fence at any time.

(f) Unless a requested fence is to be composed of hog wire, and upon determination of the Transportation Division, a landowner shall not be required to first construct a fence on a tract of land before a railroad or other persons, firms, or corporations operating over tracks within the State of Oklahoma must fence land abutting its right of way.

165:32-1-12. Penalties

Upon violation of any of the regulations contained in this Chapter, the responsible party shall be assessed a fine in an amount ~~deemed appropriate by the Commission~~ up to five hundred dollars (\$500.00) per day per violation by the Commission unless otherwise specified by law.

SUBCHAPTER 3. RAILROAD CROSSING SIGNAL SYSTEM SAFETY GRADE CROSSINGS

165:32-3-4. Removal of crossing installations

(a) Within one hundred twenty (120) days after removal of track which was formerly contiguous to a crossing, railroads are required to also remove the crossing surface which is unneeded, and replace the excavated area, matching width, grade and materials, to repair the existing roadway, making it contiguous.

(b) Railroads are required to remove signal installations deemed not salvageable by the Oklahoma Department of Transportation, on abandoned rail lines, not more than one hundred twenty (120) days after the crossing surface(s) are removed.

(c) Railroads shall relocate existing warning devices (passive or active) to a distance no less than ~~12~~ twelve feet (12') and no greater than ~~20~~ twenty feet (20') from the remaining railroad crossing surface(s). Said work to be completed not more than one hundred twenty (120) days after the track(s) or crossing surface(s) are removed.

(d) If, upon notice and hearing, the Commission finds a public crossing to be de facto abandoned, the Commission may order the track to be removed by the railroad or other property owner and the former crossing to be resurfaced in conformity with (a) of this subsection.

165:32-3-6. Notice of Closure or Detour

Railroads shall notify by regular or electronic mail the entity having roadway maintenance jurisdiction (City, County or State), no less than ~~48 hours~~ fourteen (14) calendar days in advance of closing or detouring any roadway for railroad maintenance or construction, unless an emergency exists.

165:32-3-8. Crossing Surface Quality

(a) A railroad or other persons, firms, or corporations operating over tracks within the State of Oklahoma shall maintain, in reasonably smooth condition, public grade level crossings, unobstructed and in good repair pursuant to the United States Department of Transportation

Railroad-Highway Grade Crossing Handbook. Such maintenance shall include all surfaces between the rails and two feet (2') on either side of the outer-most rail in the crossing surface. To be considered reasonably smooth, the surface must conform to the following list of non-exclusive requirements and conditions:

- (1) Any crossing panels having material damages greater than two inches (2") in depth must be replaced.
- (2) Concrete, composite or rubber crossing panels with loose components rising above the roadway surface must receive temporary repair within twenty-four (24) hours and be replaced within thirty (30) days from the date and time of notice.
- (3) Timber crossing panels with loose components rising above the roadway surface must be repaired within twenty-four (24) hours from the time of notice.
- (4) Partial asphalt cover on existing crossing surfaces will be considered a temporary repair.
- (5) Crossing panels that receive temporary asphalt repairs must be replaced within ninety (90) days of original placement of asphalt.
- (6) Crossing panels shall be stable and adequately lagged to the underlying railroad at all times.
- (7) The roadway surface will be in the same plane as the tops of the rails for a distance of at least two feet (2') beyond the rails for either single or multiple track crossings where practical.
- (b) Any crossing surface that, in the determination of the Commission, poses an unreasonable risk to the life or property of the traveling public shall be rebuilt or repaired within a timeline set by the Commission.