

CHAPTER 33. RAILROAD TRANSPORTATION

<b>Subchap.</b>		<b>Sec.</b>
<b>A.</b>	<b>GENERAL PROVISIONS . . . . .</b>	<b>33.1</b>
<b>B.</b>	<b>SERVICE AND FACILITIES . . . . .</b>	<b>33.11</b>
<b>C.</b>	<b>CLEARANCES . . . . .</b>	<b>33.121</b>

**Authority**

The provisions of this Chapter 33 issued under the Public Utility Law (66 P. S. §§ 1341 and 1342) (Repealed), unless otherwise noted.

**Source**

The provisions of this Chapter 33 adopted June 24, 1946; amended through May 1, 1975, unless otherwise noted.

**Subchapter A. GENERAL PROVISIONS**

<b>Sec.</b>	
<b>33.1.</b>	<b>Definitions.</b>

**§ 33.1. Definitions.**

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

*Blind car*—A railroad car attached behind the caboose of a freight train or at the rear end of a passenger train upon which a member of the crew cannot ride in order to properly protect the rear of the train in the event of an emergency.

*Bureau*—The Bureau of Technical Utility Services of the Pennsylvania Public Utility Commission.

*Cabin cars*—Cabooses provided for the use of railroad employees, excluding protection cars.

*Carrier*—Any railroad, railway company or corporation subject to Commission jurisdiction, which operates in this Commonwealth.

*Chemical closet*—A type of closet, the contents of which are brought into contact with chemicals.

*Closet compartment*—An enclosure in a toilet room surrounding an individual water closet. To constitute an enclosure, there must be a swinging door equipped with an internal latch.

*Department*—The Department of Transportation of the Commonwealth.

*Height of a freight car*—The distance between the top of the rail and the top of the running board.

*Locomotive*—A unit propelled by any form of energy or a combination of such units operated from a single control used in train or yard service. Does not include steam locomotives used for special excursions only.

*Main track*—A designated track upon which trains are operated by timetable, train order, or both, or the use of which is governed by block signals.

*Overhead clearance*—The vertical distance from the top of the highest rail to any structure or obstruction there above.

*Protection cars*—Closed rider or space cars commonly provided for the use of train crews involved in the transportation of molten metals or other hot material by industrial common carrier railroads.

*Refrigerators*—Technical cooling devices, including ice boxes and ice chests, provided with adequate ice and draining systems.

*Shower bath*—A facility used for washing the body under a spray of water.

*Side clearance*—The shortest distance from the center line of a track to a structure or obstruction at the side of such track.

*Side of a freight car*—The part or appurtenance of a car at the maximum distance measured at right angles from the center line of such car.

*Street railway*—Every railroad and railway, or extension, and all the facilities thereof, by whatever power operated, for public use in the conveyance of passengers or property, located mainly or in part upon, above, below, through, or along any highway in any city, borough, or town, and not constituting or used as part of a trunk line railroad system.

*Wash basin or bowl*—A basin or bowl used for the purpose of obtaining personal cleanliness.

*Water closet*—A sanitary facility for defecation, equipped with a hopper or trap and a device for flushing the bowl with water.

*Width of a freight car*—Twice the distance from the center line of car to the side of the car.

#### **Authority**

The provisions of this § 33.1 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 1501 and Chapter 27.

#### **Source**

The provisions of this § 33.1 amended November 29, 2002, effective November 30, 2002, 32 Pa.B. 5888; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial pages (293975) to (293976).

## **Subchapter B. SERVICE AND FACILITIES**

### **ACCIDENTS**

- Sec.  
 33.11. General.  
 33.12. Reportable accidents or incidents.  
 33.13. Telephone reports.  
 33.14. Accident or incident report forms.

Ch. 33 RAILROAD TRANSPORTATION

**PROTECTION OF CROSSINGS AT GRADE**

- 33.21. General.
- 33.22. State aid for protective devices.
- 33.23. Aid from the Commission.

**CONSTRUCTION, ALTERATION OR RELOCATION OF CROSSINGS**

- 33.31. Regulations and procedure.

**SAFETY—BRIDGES, TUNNELS, TRESTLES AND SWITCHES**

- 33.41. Bridge or tunnel warnings.
- 33.42. Switches marked by lamps.
- 33.43. Walkways and railings.

**OPERATION OF TRAINS**

- 33.51. [Reserved].
- 33.52. Blind cars.
- 33.53. Pusher engines.
- 33.54. Federal safety regulations.
- 33.55. Interchange of traffic and loading of commodities on open top cars.
- 33.56. Safety of operation of railroad trains.

**SANITATION AND SAFETY FACILITIES AND EQUIPMENT**

- 33.61. [Reserved].
- 33.62. Locomotives.
- 33.63. Cabin cars.
- 33.64. Protection cars.
- 33.65. [Reserved].
- 33.66. [Reserved].
- 33.67. Use of back up hose in rail operations.
- 33.71—33.77. [Reserved].
- 33.81—33.84. [Reserved].

**MOTOR VEHICLES**

- 33.91. General regulations.
- 33.92. Transportation of employes.

**ACCOUNTS, RECORDS AND REPORTS**

- 33.101. Accounts.
- 33.102. Records.
- 33.103. Reports.

**MISCELLANEOUS PROVISIONS**

- 33.111. Change in status of a station.
- 33.112. Transportation of blind persons with guide dogs.
- 33.113. [Reserved].

**ACCIDENTS****§ 33.11. General.**

Each carrier shall submit a report of each reportable accident or incident involving its facilities or operation in this Commonwealth. Reports shall be addressed to the Bureau of Technical Utility Services, Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

**Source**

The provisions of this § 33.11 were formerly designated Rule 1 by the Commission; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (239163).

**§ 33.12. Reportable accidents or incidents.**

A reportable accident or incident is one as defined in 49 CFR (relating to transportation) and when a carrier is required to report to the Federal Railroad Administration under 49 CFR Part 225 (relating to railroad accidents/incidents: reports classification, and investigations).

**Source**

The provisions of this § 33.12 were formerly designated Rule 1 by the Commission; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial pages (239163) to (239164).

**§ 33.13. Telephone reports.**

A carrier shall immediately report by telephone to the Bureau an accident or incident which requires the carrier to telephonically notify the Federal Railroad Administration under 49 CFR Part 225 (relating to railroad accidents/incidents: reports classification, and investigations). The proper telephone number is provided on the Commission's web site at [www.puc.pa.gov](http://www.puc.pa.gov).

**Source**

The provisions of this § 33.13 were formerly designated Rule 1 by the Commission; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (239164).

**§ 33.14. Accident or incident report forms.**

Carriers shall make reports to the Bureau on forms which the carrier shall file with the Federal Railroad Administration as prescribed by 49 CFR Part 225 (relating to railroad accidents/incidents: reports classification, and investigations). Reports shall be submitted to the Commission within the same time period as the reports are required to be submitted to the Federal Railroad Administration under 49 CFR Part 225.

**Source**

The provisions of this § 33.14 were formerly designated Rule 1 by the Commission; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial pages (239165) to (239166).

**PROTECTION OF CROSSINGS AT GRADE****Source**

The provisions of these §§ 33.21—33.23 were formerly designated Rule 2 by the Commission.

**§ 33.21. General.**

(a) A light shall be displayed on the head end of drafts of railroad cars being pushed or dropped over a public highway crossing, at grade, during hours of darkness, whether or not the tracks constitute a part of a railroad yard, except at times when such crossing is protected either by gates, watchmen, or train service employes.

(b) No carrier shall, without Commission approval, remove the protection afforded by interlocking signals, crossing gates, watchmen, automatic crossing signals, or any other protection against accidents, or reduce the number of hours that manual protection is maintained, or substitute or alter any existing form of protection at crossings, at grade, of the tracks of a carrier across a public highway, or the tracks of another carrier.

(c) Prior to installing automatic crossing signals at any unprotected crossing of a public highway, at grade, across its track or tracks, or at such a crossing, which is protected by fixed signs only, a carrier shall submit to the Commission plans of such proposed installation and receive approval of such plans.

(d) This section and §§ 33.21—33.23 and 33.31 (relating to State aid for protective devices; aid from the Commission; and regulation and procedure) may not prevent the placing of watchmen or gates at any public highway crossing, at grade, or an increase by a carrier of the number of hours, daily, during which any public highway crossing, at grade, shall be protected, nor prevent the temporary use of watchmen or increased protection during emergencies, nor limit the trial installation of experimental protection devices. However, the Commission shall

be notified promptly of such experimental signal installations or temporary manual protection. Commission approval of such additional temporary or experimental protection will not be required nor will such approval be required for removal of such additional temporary or experimental protection.

**§ 33.22. State aid for protective devices.**

In order to assist in establishing uniformity of protection at public highway crossings, at grade, presently unprotected and to provide improvements over devices now in use at other such crossings, the Department has agreed that it will participate in the cost of installing protection at grade crossing over its routes in accordance with the following conditions:

(1) Notice of the proposed project shall be prepared by the carrier on forms furnished by the Commission and submitted with detailed estimates of the cost of installation and plans to the Commission in sufficient time, prior to the proposed installation, to permit investigation by the Commission's staff of conditions at the crossing and the sufficiency of the warning devices proposed to be installed. The forms will then be endorsed as to acceptability by the Director of the Bureau and transmitted to the Department for its approval of financial participation in the project.

(2) The proposed protection shall conform generally with the recommended standards of the joint committee on grade crossing protection of the Association of American Railroads, subject to such modifications as may be directed by this Commission. The carriers affected shall install and maintain the protective devices.

(3) Upon the completion of the installation, a statement of the actual cost shall be prepared by the carrier and forwarded to the Commission for review and transmittal to the Department which, upon its approval, will pay one-half the actual cost of the installation or such other proportion as may have been agreed to by the Department. If advance warning signs or other similar facilities are installed along the highways leading to the crossing, the cost of such facilities and work and expense of their installation and maintenance shall be borne and performed in such manner as agreed upon by the parties or as directed by the Commission.

**Cross References**

This section cited in 52 Pa. Code § 33.21 (relating to general).

**§ 33.23. Aid from the Commission.**

Commonwealth aid in connection with the use of funds allocated to the Commission for aid in the installation of protection at grade crossings will be made by order of the Commission appropriating funds for specified installations. Application for such aid shall be submitted to the Bureau for recommendation to the Commission.

**Cross References**

This section cited in 52 Pa. Code § 33.21 (relating to general).

**CONSTRUCTION, ALTERATION OR RELOCATION OF CROSSINGS****§ 33.31. Regulations and procedure.**

Each carrier shall comply with 66 Pa.C.S. § 2702 (relating to construction, relocation, suspension and abolition of crossings) and obtain Commission approval of the construction, alteration or relocation of every public highway and railroad crossing at grade, above grade or below grade, unless the Commission has given its prior unconditional consent to an abandonment of service or facilities of the line of railroad upon which such crossing or crossings are located.

**Source**

The provisions of this § 33.31 were formerly designated Rule 3 by the Commission; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (239168).

**Cross References**

This section cited in 52 Pa. Code § 33.21 (relating to general).

**SAFETY—BRIDGES, TUNNELS, TRESTLES AND SWITCHES****§ 33.41. Bridge or tunnel warnings.**

(a) Common carriers shall install and maintain warnings of the telltale or taper type at a reasonable distance on each side of bridges, tunnels, or other obstructions over main tracks, main track sidings, yard and switching tracks in accordance with the specifications of the American Railway Engineering and Maintenance of Way Association or existing standard plans of individual railroads.

(b) The provisions of subsection (a) do not apply to locations in territory where, by railroad order or rule, employees are prohibited from climbing on top of moving cars, engines, or other high equipment, or at locations over industrial tracks where points of limited vertical clearances are marked by appropriate warning signs.

(c) As used in this section, the term “points of limited vertical clearance” shall mean points less than 22 feet above the top of the rail.

**Source**

The provisions of this § 33.41 were formerly designated Rule 7 by the Commission; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (239168).

**§ 33.42. Switches marked by lamps.**

(a) Reflectorized switch targets may not be installed on either of the following items:

(1) Switch stands on yard tracks over which there is a substantial movement at night.

(2) Switch stands connected with a main track or passing siding track, except if the track is used only in daylight, or is protected by automatic block signals, cab signals, or train controls, or by a distant switch signal or indicator in manual block or train order territory.

(b) Any existing reflectorized targets on the switch stands enumerated in subsection (a) shall be replaced by self-illuminating lamps.

(c) For the purpose of this section, a substantial movement on yard tracks generally shall consist of five or more switching or train movements after sunset and before sunrise on any night.

**Source**

The provisions of this § 33.42 were formerly designated Rule 8 by the Commission.

**§ 33.43. Walkways and railings.**

(a) Each carrier, shall provide and maintain safe and suitable walkways and railings as specified by the provisions of this section on the following bridges and coal, ore, and other trestles of such carrier if trainmen are ordinarily and customarily required to walk or to get on or off trains on such structures except if the structure is equipped with special protection for the movement of molten material.

(b) The bridges and trestles located within a train length of the entrance to any yard or water station or fuel station, and those where switching is performed generally on five or more occasions per day shall be equipped with walkways and railings as described in paragraphs (1) and (2). As used in this subsection, the term "train length" shall mean the maximum length of any train operated over the particular track involved. The walkways and railings to be provided on the various types of bridges and trestles at such locations shall be as follows:

(1) If the maximum permissible timetable speed of trains in the territory where the bridge or trestle is located is in excess of 30 miles per hour, the following provisions shall apply:

(i) *Deck girders, deck trusses and trestles.* Deck girders, deck trusses, and trestles shall utilize the following:

(A) Walkway and railing on each side in the case of a single track.

(B) Walkway between tracks and walkway and railing on each side of the bridge in the case of multiple tracks.

(ii) *Through girders.* Through girders shall utilize the following:

(A) Walkway and railing on each side in the case of a single track.



- (B) Walkway between tracks and walkway and railing on each side of the bridge in the case of multiple tracks.
  - (iii) *Intermediate girders.* Intermediate girder construction shall be considered as single track.
  - (iv) *Through trusses.* Through trusses shall utilize the following:
    - (A) Walkway and railing on each side in the case of a single track.
    - (B) Walkway between tracks and walkway and railing on each side of the bridge in the case of multiple tracks.
- (2) If the maximum permissible timetable speed of trains in the territory where the bridge or trestle is located is 30 miles per hour or less, the following provisions shall apply:
- (i) *Deck girders, deck trusses, and trestles.* Deck girders, deck trusses, and trestles shall utilize the following:
    - (A) Walkway and railing on one side in the case of a single track.
    - (B) Walkway between tracks in the case of multiple tracks.
  - (ii) *Through girders.* Through girders shall utilize the following:
    - (A) Walkway and railing on one side in the case of a single track.
    - (B) Walkway between tracks in the case of multiple tracks.
  - (iii) *Intermediate girders.* Intermediate girder construction shall be considered as single track.
  - (iv) *Through trusses.* Through trusses shall utilize the following:
    - (A) Walkway and railing on one side in the case of a single track.
    - (B) Walkway between tracks in the case of multiple tracks.
- (c) Each carrier shall submit to the Commission a report of the number and locations of its bridges and trestles to be equipped as required by the provisions of this section.
- (d) This section applies to all common carriers and is subject to such amendment, change, modification, or exception as the Commission may deem just and proper or advisable.

**Source**

The provisions of this § 33.43 were formerly designated Rule 9 by the Commission.

**OPERATION OF TRAINS**

**§ 33.51. [Reserved].**

**§ 33.52. Blind cars.**

- (a) When a trainman is required to ride at the rear of a train, no such train which has more than two blind cars at the rear shall be dispatched or leave a point to travel in excess of 15 miles, without performing switching, unless a rider car is attached to the rear of the last blind car.

(b) Subsection (a) does not apply to trains in work, construction, yard, belt-line, transfer, or wreck services.

**Source**

The provisions of this § 33.52 were formerly designated Rule 17 by the Commission. The provisions of this § 33.52 amended November 26, 1976, 6 Pa.B. 2942. Immediately preceding text appears at serial pages (27225) and (27226).

**§ 33.53. Pusher engines.**

All common carrier railroads operating in this Commonwealth shall promulgate or modify existing operating rules and procedures for the government of their respective employees so as to require that the operation of a pusher engine or engines behind an occupied cabin or caboose car, in train, shall be used subject to the following conditions:

(1) If the horsepower to be used by a pusher engine or engines behind a cabin or caboose exceeds 3,500, the train crew shall, before such a move is made, vacate the cabin car and occupy the pusher engine or a cabin car or caboose behind the pusher engine or engines, and the train shall be brought to a stop before the pusher engine or engines are detached.

(2) The practice of “cutting off on the fly” pusher engines behind occupied cabin cars shall be limited to those instances in which the horsepower used by the pusher engine does not exceed 3,500.

**Source**

The provisions of this § 33.53 were formerly designated Rule 18 by the Commission.

**§ 33.54. Federal safety regulations.**

The safety regulations of the United States Department of Transportation supplement the provisions of this chapter and control when State regulations are pre-empted. However, a violation of the Federal regulations which is not otherwise a violation of this chapter may not be subject to additional penalty for the same violation if penalized by a Federal tribunal.

**Source**

The provisions of this § 33.54 were formerly designated Rule 21 by the Commission; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (239171).

**§ 33.55. Interchange of traffic and loading of commodities on open top cars.**

The “Code of Rules for the Interchange of Traffic and the Rules Governing the Loading of Commodities on Open Top Cars,” published by the Association of American Railroads, shall supplement the provisions of this chapter.

**Source**

The provisions of this § 33.55 were formerly designated Rule 22 by the Commission.

**§ 33.56. Safety of operation of railroad trains.**

(a) Conductors and enginemen assigned to trains operating within this Commonwealth shall be fully and timely qualified and conversant with their respective duties and responsibilities, and shall have met the requirements and successfully passed the examinations adopted by the employing railroad or railway company and of any railroad over which such employe is normally required to operate, before a proper officer of such a carrier, for promotion to conductor or engineman.

(b) Such requirements and examination shall include a knowledge of and familiarity with the physical characteristics of the portion of railroad to which the conductor or engineman is assigned.

(c) It shall be the responsibility of each carrier to adopt the measures necessary to insure the availability of an adequate number of qualified enginemen and conductors.

(d) It shall be the responsibility of all train and engine service employes to maintain a knowledge and understanding of current employe timetables and special instructions thereto, general orders, bulletin orders and revisions to operating rules effected by the railroad company.

(e) The circumstances set forth in paragraphs (1)—(3) which follow, shall be considered as exceptions to the rule.

(1) During periods of emergency, the inability of a carrier to furnish a properly qualified conductor for a train will not be considered a violation of this Rule. For purposes of the Rule, an emergency shall be a condition resulting from a hurricane, tornado, cyclone, flood, derailment or other track obstruction, or the temporary loss of an overhead catenary system used for the transmission of electrical energy, and the exception shall be effective for a period not to exceed 48 hours.

(2) In the event that a conductor is incapacitated due to illness or injury, prior to completion of an assignment, and there is no qualified conductor available at such intermediate point, prompt movement of the train to the next designated crew change point will not be considered a violation of this Rule.

(3) The assignment of properly qualified supervisory personnel to operate trains consisting of emergency shipments, during authorized strikes or work stoppages will not be considered a violation of this Rule.

**Source**

The provisions of this § 33.56 were formerly designated Rule 26 by the Commission.

**SANITATION AND SAFETY FACILITIES AND EQUIPMENT****§ 33.61. [Reserved].****Source**

The provisions of this § 33.61 were formerly designated Rule 12 by the Commission; reserved May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial pages (239172) and (263643).

**§ 33.62. Locomotives.**

(a) All locomotives operated by or on each of the railroads in this Commonwealth, except those specifically exempted, shall be equipped with flush toilets or similar devices which sanitarily dispose of human waste matter, together with toilet paper properly protected from soil prior to use.

(b) The following locomotives are exempt from the requirements of subsection (a) of this section:

(1) "B" units, or locomotives used as "B" units or trailing units, if the lead or head locomotive is so equipped.

(2) Locomotives operated within this Commonwealth under lease or similar arrangement, until they have been used by the carrier for six months.

(3) Locomotives operating so as not to travel more than 60 miles in any one direction in this Commonwealth from the point of dispatchment.

(4) Locomotives commonly known as a "GG-1" and road switchers with or without steam generators commonly known as "EMD-GP-7," "EMD-GP9," "ALCO-RS2," and "ALCO-RS3." This exemption will terminate July 1, 1974.

(c) All locomotives, operated by common carrier railroads in this Commonwealth, except those exempted by subsection (b), shall be provided the following:

(1) Fresh drinking water at the beginning of each run or daily if in yard service.

(2) Commercially bottled water in tamper-proof disposable containers may be provided if bottled in accordance with Federal and State regulations and if refrigeration is provided. If commercially bottled water is not provided as described in this paragraph, then a glass-lined, stone-lined or stainless steel water dispenser of a nonfragile type equipped with a sanitary means of refrigeration in compliance with 21 CFR 1240.10, 1240.80, and 1250.85 (1980) as in effect on April 18, 1980 may be used. On April 18, 1980 21 CFR 1240.10 and 1240.80 were found at 40 FR 5620 (1975) and 21 CFR 1250.85 was found at 40 FR 5624 (1975).

(3) Single service cups in sufficient quantity and properly protected from soil prior to use.

(d) All locomotives, operated by common carrier railroads in this Commonwealth, except those exempted by subsection (b), shall be provided with suitable towels and hand cleaner in sufficient quantity, with a receptacle for used supplies.

(e) Prior to the beginning of each tour of duty or run within or into this Commonwealth or at the time of dispatchment from the engine house, all locomotives shall be inspected by the carrier to ascertain if the facilities required in this section are in operable and sanitary condition and, if such inspection indicates they are not, corrective action shall be taken prior to use.

(f) All new locomotives of the road and road switcher type acquired, except those excluded by subsection (b), shall be equipped with flush toilets or similar devices which sanitarily dispose of human waste matter.

#### Source

The provisions of this § 33.62 were formerly designated Rule 20 by the Commission; amended June 20, 1980, effective June 21, 1980, 10 Pa.B. 2463; all locomotives and cabin cars affected by this section must be in compliance within six months of June 21, 1980. Immediately preceding text appears at serial page (20876).

#### Notes of Decisions

##### *Flush Toilets or Similar Devices*

“Similar device” means “a device which sanitarily disposes of human waste material,” and the record supports a conclusion by the PUC that equipping locomotives with disposable polyethylene bags sealed with non-slip ties which are to be placed in a plastic holding container does not comply with the requirement that locomotives be equipped with flush toilets or similar devices. *Norfolk and Western Railway Company v. Public Utility Commission*, 413 A.2d 1037 (Pa. 1980).

##### *Interstate Commerce*

State regulation of sanitary devices on locomotives does not create an undue burden on interstate commerce. *Norfolk and Western Railway Company v. Public Utility Commission*, 413 A.2d 1037 (Pa. 1980).

##### *Preemption*

State regulation of sanitary devices on locomotives is not preempted by the federal Boiler Inspection Act (45 U.S.C. §§ 22—34), the Federal Railroad Safety Act of 1970 (45 U.S.C.A. § 421 et seq.), or the regulations of the Food and Drug Administration (21 CFR 1250.51(a) and (b)). *Norfolk and Western Railway Company v. Public Utility Commission*, 413 A.2d 1037 (Pa. 1980); reversing 399 A.2d 1184 (Pa. Cmwlth. 1979).

##### *Remedial Measures*

Where a railroad company has taken steps to correct operational difficulties with the sanitary toilet facilities in its locomotives, which facilities had previously been found to be in violation of this section, this section does not mandate that the railroad must install a completely different system, but rather allows the railroad to show that the existing system has been rendered sanitary by the correction of the operational difficulties. *Public Utility Commission v. Norfolk and Western Ry. Co.*, 461 A.2d 1353 (Pa. Cmwlth. 1983).

### § 33.63. Cabin cars.

(a) All windows and door glass installed in cabin cars shall be shatterproof.

(b) All doors on cabin cars shall be equipped with hardware which insures proper closure and manipulation, and shall be maintained in a manner which insures proper functioning of doors at all times.

(c) All cabin cars shall be properly heated and shall have adequate ventilation obtained by windows opening to the atmosphere. Such windows shall be so constructed and maintained as to insure easy opening. All cabin cars operated by or on each of the railroads in this Commonwealth shall be equipped with screens for use during the season when flies and insects are prevalent. The use of properly functioning air-changing and air-cooling equipment is permitted.

(d) Cabin cars shall conform with the following:

(1) All cabin cars shall be provided with a minimum of two rigidly mounted interior electric lights, to furnish lighting of not less than 25 foot-candles at desk-top level, one of which shall be located above the desk, and one shall be installed at a location to provide proper illumination of the cabin interior.

(2) Cabin cars operated exclusively during daylight hours and those cabin cars operated within a radius of 20 miles from the point of dispatchment are exempt from the requirement of paragraph (1).

(e) Each cabin car in use shall be equipped with either flashing or constant burning electric marker lights displayed to the rear. These lights shall be of such intensity and so equipped with proper lens as to be visible at a distance of 3,000 feet under normal atmospheric conditions, except that cabin cars operated exclusively during daylight hours are exempt from this requirement.

(f) Cabin cars shall be equipped with all of the following:

(1) A water or chemical closet compartment and toilet tissue, except that short line railroads engaged principally in switching operations are exempt from this requirement.

(2) A refrigerator, except that short line railroads engaged principally in switching operations and cabin cars operated within a radius of five miles from the point of dispatchment where refrigeration is available are exempt from this requirement.

(3) A wash basin of stainless steel or other noncorrosive material and single-service paper towels, except that cabin cars operated within a radius of 15 miles from the point of dispatchment, where washing facilities are available, are exempt from this requirement.

(4) Individual single-service drinking cups and containers.

(5) A table or desk suitable for use by the crew in the performance of clerical duties and for dining purposes if used for such functions.

(6) A stove with proper and safe venting, and adequate fuel, capable of providing sufficient heat for the cabin interior, serviced and maintained regularly. In the event liquid gas fuel is used, proper and constant maintenance shall be performed to insure that there will be no leakage of gas or seepage of oil

from the tank, fuel line, or connections, paying particular attention to the prevention of any accumulation of fuel on the floor of the cabin or gas in the cabin atmosphere.

(7) Fresh drinking water at the beginning of each run or daily if in yard service.

(8) Commercially bottled water in tamper-proof disposable containers may be provided if bottled in accordance with Federal and State regulations and if refrigeration is provided. If commercially bottled water is not provided as described in this paragraph, then a glass-lined, stone-lined, or stainless steel water dispenser of a nonfragile type equipped with a sanitary means of refrigeration in compliance with 21 CFR 1240.10, 1240.80 and 1250.85 (1980) as in effect on April 18, 1980 may be used. On April 18, 1980 21 CFR 1240.10 and 1240.80 were found at 40 FR 5620 (1975) and 21 CFR 1250.85 was found at 40 FR 5624 (1975).

(g) If in use, cabin cars shall have clean storage facilities for any tissue, cups or towels required by these regulations.

(h) An adequate supply of pure and potable water, obtained from a source approved by the Department of Health of the Commonwealth, shall be available for the use of occupants of cabin cars.

(i) Employers shall maintain all cabin cars in good repair, including the plumbing, lighting, heating and ventilation systems, and shall keep such cars in a clean condition, free from vermin and any accumulation of dirt, garbage or other refuse.

#### Source

The provisions of this § 33.63 were formerly designated Rule 20 by the Commission; amended June 20, 1980, effective June 21, 1980, 10 Pa.B. 2463; all locomotives and cabin cars affected by this section must be in compliance within six months of June 21, 1980. Immediately preceding text appears at serial pages (20878) and (20879).

#### Cross References

This section cited in 52 Pa. Code § 33.64 (relating to protection cars).

### § 33.64. Protection cars.

Protection cars shall comply with § 33.63(a), (b) and (f)(6) (relating to cabin cars) if they are equipped with at least one window with glass installed.

#### Source

The provisions of this § 33.64 were formerly designated Rule 20 by the Commission.

**§ 33.65. [Reserved].****Source**

The provisions of this § 33.65 were formerly designated Rule 20 by the Commission; reserved May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial pages (239176) to (239178).

**§ 33.66. [Reserved].****Source**

The provisions of this § 33.66 were formerly designated Rule 25 by the Commission. The provisions of this § 33.66 amended December 20, 1974, 4 Pa.B. 2570; reserved May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial pages (239178) to (239179).

**§ 33.67. Use of back up hose in rail operations.**

(a) The use of back-up hoses in all train operations shall be for emergency stop of the train movement; however, the use of back-up hose for car spotting operations shall be permitted, providing that communication with the engineman is available to insure the safety of the movement.

(b) Future repairs to or replacement of back-up hoses by any carrier shall be to modify the hose to at least one-inch diameter (I.D.), with a maximum overall length not to exceed ten feet.

(c) All carriers shall instruct their employes in the proper use of the back-up hose, to include examination of same to make certain that any back-up hose used, will be in a fit and safe condition before being used in any subsequent train movement.

**Source**

The provisions of this § 33.67 adopted August 6, 1976, 6 Pa.B. 1842.

**§§ 33.71—33.77. [Reserved].****Source**

The provisions of these §§ 33.71—33.77 reserved May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial pages (239180) to (239182).

**§ 33.81. [Reserved].****Source**

The provisions of this § 33.81 were formerly designated Rule 19 by the Commission; reserved May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (239182).



**§ 33.82. [Reserved].****Source**

The provisions of this § 33.82 were formerly designated Rule 13 by the Commission; reserved May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (239182).

**§ 33.83. [Reserved].****Source**

The provisions of this § 33.83 were formerly designated Rule 14 by the Commission; reserved May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial pages (239182) to (239183).

**§ 33.84. [Reserved].****Source**

The provisions of this § 33.84 were formerly designated Rule 15 by the Commission; reserved May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial pages (239183) to (239184).

**MOTOR VEHICLES****§ 33.91. General regulations.**

(a) Each motor vehicle shall be inspected at the regular intervals prescribed by law and shall display a valid Commonwealth inspection certificate or be in compliance with the applicable reciprocity provisions of the Vehicle Code of Pennsylvania (75 P. S. § 101 et seq.). Each motor vehicle shall conform with all other provisions of the Vehicle Code and laws applicable to its type and classification.

(b) Each motor vehicle shall have fixed seats provided for the total number of persons permitted to ride therein, based upon the following:

(1) If the driver's seat is bench-type and 56 inches or greater in width, not more than two persons in addition to the driver may ride thereon. A minimum of 24 inches shall be allowed for the accommodation of the driver.

(2) Individual or bench-type seats for passengers shall provide a minimum of 16 inches width per person.

(c) Each motor vehicle shall be provided with adequate controlled ventilation designed to avoid infiltration of gas fumes. Vehicles used during winter months shall have provisions for heating to a level of at least 45° F. in the compartments of both passengers and drivers. Adequate lighting shall be provided for entrance and exit with steps and handholds where appropriate.

(d) Each motor vehicle shall carry a basic minor repair kit, including jack, wheel lug wrench, and flashlight for roadside service; warning devices to indicate stalled or stopped vehicles, including signs, flags, and flares, shall also be carried.

(e) Each motor vehicle shall carry an adequate first aid kit suitable for the number of employees transported.

(f) A fire extinguisher of the dry chemical multipurpose type shall be available to the driver. An additional extinguisher shall be available in the passenger compartment of any motor vehicle intended to transport more than five passengers. Fire extinguishers shall have an Underwriters Laboratories, Incorporated, classification and rating of "1-A," "4-B," "C," or superior. An Underwriters' Laboratories, Incorporated, or an Underwriters of Canada classification and rating label shall be affixed to each extinguisher.

(g) Safety equipment, small tools, and materials shall be stored in a safe manner, but be readily accessible for use, by means of brackets, clamps, or compartmented boxes attached to the body or frame of the vehicle.

(h) Hand tools, articles of equipment, or materials used by the work crews may be carried in the passenger compartment of a vehicle if properly stowed. Items which might be hazardous to passengers, if dislodged by sudden motion, acceleration, braking, or stopping, shall be securely fastened to the vehicle body or frame by clamps, brackets, or lashing, or enclosed in storage bins or cribs.

(i) Gasoline or other flammable liquids, such as paint solvent, thinners, oils for snow or weed burning, and the like, may not be transported in the same compartment as passengers. Flammable liquids used in operations by personnel may be transported by the same vehicle, provided they are kept in underwriter-approved closed containers secured to the vehicle outside of the passenger compartment.

(j) Transportation of explosives and detonators shall conform with all appropriate provisions 75 Pa.C.S. (relating to Vehicle Code) and the regulations of the Hazardous Substances Transportation Board of the Commonwealth. No explosives or detonators may be carried on vehicles transporting personnel other than qualified blast men, one of whom shall be the driver of the vehicle.

(k) Each motor vehicle shall be maintained in a clean, sanitary, and safe mechanical and physical condition by means of regularly scheduled service and maintenance. Such regularly scheduled service and maintenance, other than the inspection or testing required by the driver as set forth in subsection (l) of this section, shall be conducted by personnel other than those regularly using the vehicle. Employees shall cooperate in maintaining clean and sanitary conditions.

(l) Inspection or testing by the driver of all parts vital to the safe operation of vehicles, such as brakes, steering gear, tires, lights and signalling devices, shall be made at the beginning of each shift or each day, and as often as necessary during use. Any condition found then or at any other time which will prevent the safe operation of the vehicle shall be corrected before such vehicle is used.

(m) Each vehicle driver shall be at least 18 years of age and possess a valid driver's license issued by this Commonwealth for the type of vehicle used and service performed or comply with the applicable reciprocity provisions 75 Pa.C.S. (relating to Vehicle Code). The driver shall be responsible for the safe and

legal operation of the vehicle and have full authority for its control. If not more than five persons comprise the work crew, the vehicle driver may be responsible for the conduct of the passengers. If a foreman or leader is present, such individual shall be responsible for the safe and disciplined behavior of personnel while in transit.

(n) In vehicles where the driver's compartment is separate from the compartment used to transport employes, provision shall be made for communication between the driver and the passengers.

(o) Each common carrier railroad, its officers, agents, representatives, and other personnel responsible for compliance with the provisions of this section shall be familiar with the requirements of this section.

#### Source

The provisions of this § 33.91 were formerly designated Rule 24 by the Commission.

#### Cross References

This section cited in 52 Pa. Code § 33.92 (relating to transportation of employes).

### § 33.92. Transportation of employes.

All common carrier railroads operating in this Commonwealth shall comply with the provisions of § 33.91 (relating to regulations) with respect to motor vehicles used to transport railroad employes, whether or not on a public highway, to and from their place of employment or during the course of employment. Such vehicles shall be suitably equipped and maintained for the health, comfort, and safety of employes transported as provided in these regulations, except that in the event of emergency, if it appears necessary to transport railroad employes to a site by means of any available transportation, motor vehicles not designed to transport railroad employes may be used, or an unauthorized number of railroad employes may be transported in a motor vehicle, provided there is compliance with all of the following conditions:

- (1) The supervisor authorizing such use shall submit a written report to the Commission within 5 days stating the exact nature of the emergency and justifying the use of a motor vehicle not in compliance with this section or other exception taken to standing orders.
- (2) Reasonable and practical precautions shall be taken to ensure the safety of the driver and other occupants of vehicles.
- (3) No disciplinary action may be taken against an employe for refusing to ride in or upon a motor vehicle not designed to transport railroad employes, or a vehicle carrying more than its authorized complement of men.

#### Source

The provisions of this § 33.92 were formerly designated Rule 24 by the Commission.

**ACCOUNTS, RECORDS AND REPORTS****§ 33.101. Accounts.**

Each carrier authorized to operate in this Commonwealth shall keep and record its accounts and records in conformity with the systems of accounts for railroad companies, with text, definitions and instructions as embodied in the currently effective classifications prescribed for railroad companies by the Surface Transportation Board.

**Source**

The provisions of this § 33.101 were formerly designated Rule 6 by the Commission; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (311895).

**§ 33.102. Records.**

Each carrier shall preserve its records in conformity with the effective regulations to the Surface Transportation Board.

**Source**

The provisions of this § 33.102 were formerly designated Rule 6 by the Commission; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (311895).

**§ 33.103. Reports.**

A carrier shall file with the Commission each year an assessment report on a form provided by the Commission showing gross Commonwealth intrastate revenues for assessment purposes. The assessment report shall be filed by March 31 covering the preceding calendar year.

**Authority**

The provisions of this § 33.103 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 510 and 2508.

**Source**

The provisions of this § 33.103 amended December 22, 1989, effective December 23, 1989, 19 Pa.B. 5424; amended May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (311895).

**Cross References**

This section cited in 52 Pa. Code § 101.2 (relating to definitions); and 52 Pa. Code § 101.4 (relating to reporting requirements).

**MISCELLANEOUS PROVISIONS****§ 33.111. Change in status of a station.**

(a) Each carrier shall obtain Commission approval prior to making any of the following changes with respect to any station maintained by the utility in this Commonwealth:

- (1) Change a station from an agency station to a nonagency station.
- (2) Abandon a station as a passenger station.
- (3) Abandon a station as a freight station.
- (4) Abandon a station entirely.

(b) Subsequent to the filing of an application seeking approval of one or more of the changes listed in subsection (a), the applicant shall post due notice of the proposed change in the station involved and at three other conspicuous places in its vicinity. The application may be considered by the Commission without hearing after 30 days, following the posting of the notice of the proposed change, provided no protest is filed with the Commission within such 30-day period. Each protest shall set forth the reasons, which in the judgment of the protestant, show that the Commission should not approve such application. A copy of the protest shall be served on the applicant at the time the protest is filed with the Commission.

**Source**

The provisions of this § 33.111 were formerly designated Rule 4 by the Commission.

**§ 33.112. Transportation of blind persons with guide dogs.**

Each carrier shall transport dogs which have been trained for the purpose of guiding blind persons, and are accompanying such persons who have paid the regular fare for transportation, provided the guide dog is properly leashed and muzzled and does not occupy a seat in the conveyance.

**Source**

The provisions of this § 33.112 were formerly designated Rule 5 by the Commission.

**§ 33.113. [Reserved].**

**Source**

The provisions of this § 33.113 were formerly designated Rule 23 by the Commission; reserved May 24, 2013, effective May 25, 2013, 43 Pa.B. 2820. Immediately preceding text appears at serial page (239189).

**Subchapter C. CLEARANCES**

- Sec.
- 33.121. Overhead clearances.
  - 33.122. Side clearances.
  - 33.123. Overhead and side clearances.
  - 33.124. Clearances between parallel tracks.
  - 33.125. Other conditions and obstruction adjacent to tracks.
  - 33.126. Lesser clearances.
  - 33.127. Exemptions.
  - 33.128. Application of regulations.

33.129. Enforcement.

**§ 33.121. Overhead clearances.**

(a) Minimum overhead clearances above railroad tracks, used or proposed to be used for transporting freight cars, shall be 22 feet, except as provided in this Subchapter. Structures constructed, or under construction, prior to the adopting of this Subchapter may be maintained at existing clearances and additional tracks may be constructed and existing tracks reconstructed at the same clearance.

(b) Overhead clearance above the top of rail of such tracks located at the entrance and inside of buildings may be reduced to 18 feet; if an overhead clearance of less than 22 feet exists on tracks inside such buildings, movements of railway equipment shall be brought to a stop before entering such buildings. In switching movements requiring a number of entries, stopping is required only upon initial entry.

(c) Clearances provided in this section do not apply to electric wires and equipment required over present and future tracks for the operation of trains by electric energy, provided the carriers concerned promulgate and enforce rules which prohibit any employe from being on top of cars while being operated under lower clearances than provided in this section.

(d) Clearances provided in this section do not apply to enginehouses, engine-house facilities, tipples, or facilities used for servicing cars or for loading or unloading of bulk commodities, if such compliance is not reasonably practicable.

**Source**

The provisions of this § 33.121 were formerly designated Section 1 by the Commission.

**Cross References**

This section cited in 52 Pa. Code § 33.123 (relating to overhead and side clearances).

**§ 33.122. Side clearances.**

(a) Minimum side clearances from center line of tangent railroad tracks, used or proposed to be used for transporting freight cars, shall conform with the regulations of this section, except that structures, including platforms and tracks, constructed or under construction prior to the adoption of this Subchapter may be maintained and extended at existing clearances.

(b) All structures and obstructions above the top of the rail, except those specifically exempted in this section, shall have a minimum side clearance of 12 feet from the center line of the track.

(c) Platforms, except platforms adjacent to main or passing tracks, 4 feet or less above the top of the rail may have lesser clearance than 8 feet, 6 inches, from center line of tracks on one side of such tracks only if a full clearance of 8 feet, 6 inches, is maintained on opposite side of track or track centers to adjacent track are not less than 14 feet.

(d) Platforms 4 feet, 6 inches, or less above the top of the rail, if used principally for loading or unloading refrigerator cars, may be constructed 8 feet from the center line of the track.

(e) Platforms previously constructed at less than the clearances prescribed in this section may be extended at such lesser clearances, unless such an extension is in connection with reconstruction of the original platform.

(f) Low passenger platforms not over 8 inches above the top of the rail may be 5 feet, 1 inch, from the center line of the track. High passenger platforms not over 4 feet above the top of the rail may be 5 feet, 7 inches, from the center line of the track.

(g) Side clearances, other than for platforms, on sidings only, at entrances to and inside of buildings, shall not be less than 8 feet from the center line of the track.

(h) Switchboxes, switch-operating mechanisms, and accessories necessary for the control and operation of signals and interlockers projecting 4 inches or less above the top of the rail shall not be less than 3 feet from the center line of the track.

(i) The center spindle of signal and switch stands 3 feet or less above the top of the rail and located between tracks, if not practicable to provide the clearances otherwise prescribed in this section, shall not be less than 6 feet from the center line of the track.

(j) Through bridges supporting track affected, tunnels, water columns, and oil columns should not be less than 8 feet from the center line of the track, except if special protection is required for unusual commodities.

(k) Clearances for through bridges supporting track affected, water barrel platforms and refuge platforms on bridges and trestles not provided with walkways, handrails, water barrels, water columns, oil columns, block signals, cattle guards, and stock chutes if all or portions thereof are 4 feet or less above the top of the rail, may be decreased to the extent defined by a line extending diagonally upward from a point level with the top of the rail and 5 feet distant laterally from the center line of the track to a point 4 feet above the top of the rail and 8 feet distant laterally from the center line of the track to a point 4 feet above the top of the rail and 8 feet distant laterally from the center line of the track; however, the minimum clearance for handrails and water barrels on bridges with walkways shall be 7 feet, 9 inches, and the minimum clearance for fences for cattle guards shall be 6 feet, 9 inches.

(l) Lesser clearances, authorized in subsection (k) providing for handrails and water barrels, do not apply to through bridges if the work of trainmen or yardmen require them to be upon the decks of such bridges for the purpose of coupling and uncoupling cars in the performance of switching service on a switching lead.

(m) The side clearances specified in this section do not apply to mail cranes during such time as arms of such mail cranes are supporting mail sacks for deliv-

ery, if the top arm is not higher than 10 feet, 8 inches, above the top of the rail and neither arm extends within 6 feet, 5 inches, from the center line of the track.

(n) Icing platforms and supports shall have a minimum side clearance of eight feet.

(o) Operations over portions of track adjacent to icing platforms previously constructed with a side clearance of less than eight feet shall be restricted, except in emergencies, to the movement or switching of trains containing refrigerator cars to be iced, and necessary use of such tracks for the unloading of supplies required for the operation of an icing dock.

(p) The side clearances specified in this section do not apply to intertrack fences located on the center line between tracks.

(q) The clearances provided in this section do not apply to enginehouses, enginehouse facilities, tipples, or facilities used for servicing cars or for loading or unloading of bulk commodities, if such compliance is not reasonably practicable.

(r) The side clearances specified in this section do not apply to car retarders, derails, switch point protectors, guardrails, and similar appurtenances projecting 3 inches or less above the top of the rail.

(s) All minimum side clearances prescribed in this section are for tangent tracks. Structures adjacent to curve tracks shall have additional minimum side clearance compensating for curvature.

#### Source

The provisions of this § 33.122 were formerly designated Section 2 by the Commission.

#### Cross References

This section cited in 52 Pa. Code § 33.123 (relating to overhead and side clearances).

### § 33.123. Overhead and side clearances.

(a) The overhead and side clearances prescribed in §§ 33.121 and 33.122 (relating to overhead clearances; side clearances) may be decreased to the extent of a line extending diagonally downward from a point 4 feet from the center line of the track 22 feet above the top of the rail to a point 8 feet from the center line of the track at 16 feet above the top of the rail.

(b) For tracks located at entrances to and inside buildings with 18 feet overhead and 8 feet side clearances, as prescribed in this subchapter, such overhead and side clearances may be decreased to the extent of a line extending diagonally downward from a point 4 feet from the center line of the track at 18 feet above the top of the rail to a point 8 feet from center line at 14 feet above top of rail.

(c) Canopies at one side of the track at freight platforms may be constructed not less than four feet from the center line of the track if the height of such canopies is at least 17 feet, 6 inches, above the top of the rail and if the full clearance



of 8 feet, 6 inches, is maintained on the opposite side of the track from such canopy or track centers to adjacent track are not less than 14 feet.

(d) Shelters over platforms used for passenger car operation may be constructed not less than 4 feet, 6 inches, from the center line of tracks if the height is not less than 15 feet above the top of the rail and if the railroads promulgate and enforce rules prohibiting employees from riding on the side of equipment if standing above car floor height.

**Source**

The provisions of this § 33.123 were formerly designated Section 3 by the Commission.

**§ 33.124. Clearances between parallel tracks.**

(a) The minimum distance between the center lines of parallel tracks shall not be less than 13 feet, 6 inches, for main tracks and not less than 13 feet, 6 inches, for yard and side tracks, except as otherwise provided in this section.

(b) The center line of any track, except a main track or a passing track, parallel and adjacent to main track or a passing track, shall be at least 15 feet from the center line of such main track or passing track, except that if a passing track is adjacent to and at least 15 feet distant from the main track, such other track may be constructed adjacent to such passing track with a clearance of not less than 13 feet, 6 inches.

(c) The center line of any ladder track, constructed parallel to any other adjacent track, shall have a clearance of not less than 18 feet from the center line of such other track, except that parallel ladder tracks shall have a clearance of not less than 19 feet from center line to center line.

(d) The minimum distance between the center line of parallel team and house tracks shall not be less than 13 feet, 6 inches.

(e) Tracks constructed or under construction prior to the effective date of these regulations may be extended without increasing the distances between tracks.

**Source**

The provisions of this § 33.124 were formerly designated Section 4 by the Commission.

**§ 33.125. Other conditions and obstruction adjacent to tracks.**

(a) No merchandise, material, or other articles shall knowingly be permitted to remain piled or assembled on ground or on platforms adjacent to any track at a distance of less than 8 feet, 6 inches, from the center line of such track. It is recommended that suitable line or other marker be maintained at a distance of 8 feet, 6 inches, from the center line of the track, on all platforms, excluding passenger platforms, to indicate the space along the edge of such platform which shall be kept clear of merchandise, material, or other articles.

(b) The space between tracks ordinarily used by train and yardmen and other employes as a walkway in the discharge of their duties, and the space beside such tracks within 8 feet, 6 inches, of the center line of such tracks, shall be kept in reasonably suitable condition for such purpose.

**Source**

The provisions of this § 33.125 were formerly designated Section 5 by the Commission.

**§ 33.126. Lesser clearances.**

Except as otherwise provided in this subchapter, if overhead or side clearances between a track and any building, structure, or facility are less than the minimum prescribed in this Subchapter, but were created prior to the adoption of such provisions such minimum clearances shall be provided whenever such a building, structure, or facility is relocated or reconstructed. However, the Commission may grant specific requests for the future continuance of prior clearances at such reconstructed buildings, structures, or facilities, if application is made as provided in § 33.127(b) (relating to exemptions).

**Source**

The provisions of this § 33.126 were formerly designated Section 6 by the Commission.

**§ 33.127. Exemptions.**

(a) Nothing in this subchapter will be construed as restricting the temporary distribution of materials or the performance of work on, over, or adjacent to tracks, if such distribution or performance is necessary in the construction or maintenance of facilities or equipment, provided such distribution and performance is carried out within a reasonable time under conditions reasonably necessary to provide for the safety of all concerned, including proper notice by train order, message, or bulletin.

(b) If, in any particular case, exemption from any of the requirements of this subchapter is deemed necessary by the carrier concerned, the Commission may grant an application by such carrier for such exemption if accompanied by a full statement of conditions existing and the reason why such exemption is requested. Any exemption granted will be limited to the particular case covered by the application.

**Source**

The provisions of this § 33.127 were formerly designated Section 7 by the Commission.

**Cross References**

This section cited in 52 Pa. Code § 33.126 (relating to lesser clearances).

**§ 33.128. Application of regulations.**

(a) Wherever the words “railroads,” “railroad tracks,” “tracks,” “buildings,” “entrances to an inside of buildings,” “structures,” “facilities,” “platforms,” and other similar terms appear in this Subchapter, they apply only to property owned by, or leased to, common carrier railroads.

(b) This subchapter does not apply to repairs, renewals, maintenance, extensions, additions, or rearrangements in substantially the same location and within the general plan of existing installations if existing clearances are not reduced.

(c) This section shall not be construed as limiting the authority or jurisdiction of the Commission.

**Source**

The provisions of this § 33.128 were formerly designated Section 8 by the Commission.

**§ 33.129. Enforcement.**

(a) *Application.* The provisions of this section apply to violations of the Commission’s regulations or orders or other law of the Commonwealth which is enforceable by the Commission. It shall not apply to the exercise of authority which a Federal agency has delegated to state enforcement personnel under section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C.A. § 435) or to other regulation or requirement preempted by Federal law.

(b) *Issuance of emergency order.* When a qualified safety inspector determines through testing, inspection, investigation or research that a locomotive, car, other facility or equipment of a railroad is so imminently hazardous as to present a dangerous or potentially dangerous condition likely to result in injuries to any persons or in damage to property or in breakdown by reason of the fact that the equipment, track, locomotive, rolling stock or other facility being in violation of a law, regulation or order which the Commission is legally authorized to enforce, such inspector shall declare such locomotive, car or other facility “OUT OF SERVICE.”

(c) *Action by inspector.* When an inspector declares a locomotive, car or other facility “OUT OF SERVICE,” he shall affix thereto in a prominent place an “OUT OF SERVICE NOTICE” on Form PUC-BT-6. Such affixing of “OUT OF SERVICE NOTICE” shall constitute legal notice that the locomotive, car or other facility shall not be used or operated except as provided under Part IV regulations until all defects noted thereon shall be repaired. Such form shall not be removed by anyone until the defects noted by the inspector have been corrected by the railroad company, and the locomotive, car or other facility is placed in full compliance. In the case of a track or other facility for which it is not practical to affix an “OUT OF SERVICE” notice, the qualified inspector shall furnish immediate telephone or telegraphic notification to the owner of the track (in lieu of the affixing an “OUT OF SERVICE NOTICE”), describing the conditions, specific locations and defect. When an “OUT OF SERVICE NOTICE” has

been affixed, the qualified inspector shall furnish Form PUC-BT-5 in duplicate by the most expeditious manner to the railroad immediately responsible for the operation of the defective locomotive, car or track. Such Form PUC-BT-5 shall indicate thereon the nature of the defects involved which caused the equipment or other facility to be placed "OUT OF SERVICE". In addition the inspector shall immediately forward a copy of the Form PUC-BT-5 to the Secretary of the Commission, with a copy thereof to be retained by the qualified inspector.

(d) *Reduction in maximum speed of track.* When a qualified Commission inspector determines the existence of a hazardous local track condition, the inspector shall furnish immediate telephone or telegraphic notification to the owner of the track that movements within defined limits of the track must be made at a reduced maximum speed, which shall be that speed applicable to the highest FRA class designation which the inspector determines is appropriate. Within 48 hours of the telephone or telegraphic notification, the qualified inspector shall furnish Form PUC-BT-5 in duplicate to the owner of the track or to the owner's agent immediately responsible for the affected track. PUB-BT-5 shall indicate thereon the full particulars of the conditions and the violations which create local safety hazards. Such conditions or violations shall be fully repaired or otherwise brought into compliance with the highest FRA class designation applicable to the speed at which trains will operate on the track in question.

(e) *Action by a railroad.* When any locomotive, car or facility of a railroad has been declared "OUT OF SERVICE," it shall be removed from service until the defect or defects are corrected. In the case of track being reduced in class, the railroad shall take the steps necessary to insure compliance with the findings of the Inspector. For the purpose of making necessary corrections, defective locomotive units, freight cars, cabin cars and passenger carrying cars may be moved to the nearest available point where the unit can be repaired, provided that other similar units in suitable operation condition are also a part of the consist. When the defects noted on Form PUC-BT-5 have been corrected, the railroad shall complete the "Carrier Certification" portion of Form PUC-BT-5 and forward the entire form to the Secretary of the Commission at the address shown thereon.

(f) *Review.* Review shall be in accordance with the following:

(1) Upon issuance of Form PUC-BT-5, the railroad involved may request a reinspection. The Chief Engineer or an engineer designated by the Commission shall arrange for an immediate reinspection by a second qualified Commission inspector. If, on reinspection, the decision of the original inspector is sustained or modified by the Chief Engineer or an engineer designated by the Commission, the Chief Engineer or an engineer designated by the Commission shall notify in writing the railroad that the original finding is affirmed or modified. If, however, the decision of the original inspector is not sustained, the inspector shall immediately remove the "OUT OF SERVICE NOTICE," and enter an appropriate notation on the related Form PUC-BT-6; and the restrictions of the Notice shall then cease to be effective.

(2) In the event the Chief Engineer or an engineer designated by the Commission, on the basis of the reinspection, affirms or modifies the original finding, a railroad may then request complete review within 30 days of the affirmation or modification, by the Commission, which may, after affording an opportunity for hearing, at which the inspectors shall be present, and at which other interested parties may testify, affirm, set aside, or modify in whole or in part, the actions taken. Requests for review by the Commission shall recite the facts relevant to the issuance and review of the "OUT OF SERVICE NOTICE." Actions on such reviews will be scheduled on an expedited basis in relation to other Commission business.

(3) The requirements of an "OUT OF SERVICE NOTICE" shall be effective pending action by the Commission.

(4) Requests for extension of time for compliance based on good cause will be decided by the Commission upon petition of the common carrier.

(g) *Penalties.* Any violation of this section shall subject the violator to civil or criminal penalties as the act may provide. Each day of non-compliance shall constitute a separate violation. However, where a car or locomotive shall have been properly equipped and such equipment shall have become defective or insecure while such car or locomotive was being used by such carrier, such car may be hauled from the place where such equipment was first discovered to be defective or insecure to the nearest available point where such equipment can be repaired, without liability for the penalties imposed by this section, if such movement is necessary to make such repairs and such repair cannot be made except at such repair point.

**Source**

The provisions of this § 33.129 adopted March 26, 1976, effective March 27, 1976, 6 Pa.B. 611.

[Next page is 35-1.]

33-30

(366756) No. 465 Aug. 13

*Copyright © 2013 Commonwealth of Pennsylvania*