

**PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R051-01

October 30, 2001

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-27, NRS 703.1545 and 704.307.

Section 1. Chapter 705 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *The commission may, as set forth in 49 U.S.C. § 20113, bring a civil action in a district court of the United States to enjoin a violation of a railroad safety regulation or order or to impose and collect a civil penalty for the violation of a railroad safety regulation or order if the Secretary of Transportation fails to do so.*

Sec. 3. 1. *A railroad that owns or operates a railroad bridge that carries railroad traffic shall inspect that bridge:*

(a) Not less than one time in each 12-month period; and

(b) Within 24 hours after receiving a request for an inspection from the commission or its designee.

2. Each inspection must be performed by a person qualified and competent in the inspection of railroad bridges who shall prepare, sign and date a written report of the results of his inspection.

3. The railroad shall:

(a) *Retain, in written or electronic form, each inspection report of a railroad bridge for not less than 2 years;*

(b) *Make such reports available for review and inspection by the commission or its designee; and*

(c) *Upon request, provide a copy of a retained report to the commission or its designee.*

4. *As used in this section, “railroad bridge” means a structure supporting one or more railroad tracks above land or water with a span of not less than 12 feet measured along the center line of the track. The term applies to the entire structure between the faces of the back walls of abutments or equivalent components, regardless of the number of spans, and includes all such structures whether of timber, stone, concrete, metal or any combination thereof. The term does not include culverts or culvert-type structures.*

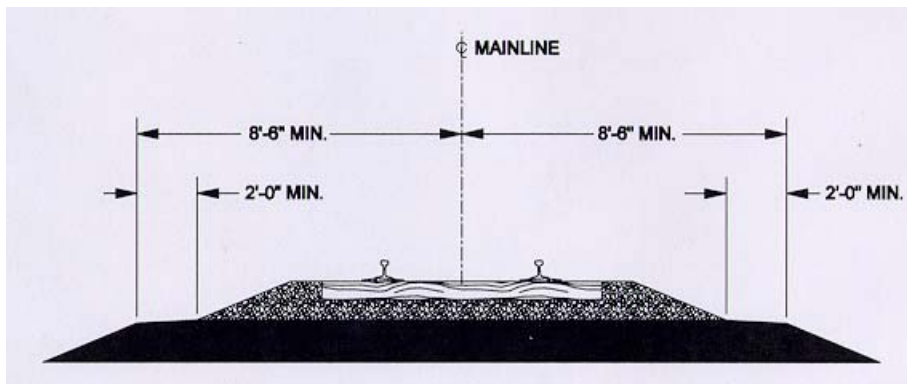
Sec. 4. 1. *Except as otherwise provided in sections 5, 7 and 9 of this regulation, walkways alongside main line track, in addition to the requirements of NAC 705.160, must:*

(a) *Be present on each side of the track;*

(b) *Be not less than 2 feet in width; and*

(c) *Provide a minimum side clearance of 8 feet 6 inches from the center line of the track to the outside edge of the walkway.*

2. *The following diagram illustrates the requirements set forth in subsection 1:*



Sec. 5. 1. Walkways alongside main line and branch line track at siding locations, in addition to the requirements of NAC 705.160, must:

(a) Be present:

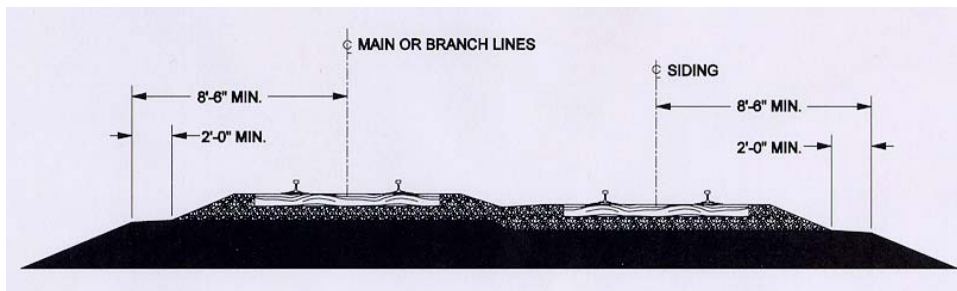
(1) On the outside of the main line or branch line track; and

(2) On the outside of the siding track;

(b) Be not less than 2 feet in width; and

(c) Provide a minimum side clearance of 8 feet 6 inches from the center line of the track to the outside edge of the walkway.

2. The following diagram illustrates the requirements set forth in subsection 1:



Sec. 6. 1. Walkways alongside track in all yards and in advance thereof, wherever an employee's assigned duties regularly require him to be present on the ground in proximity to the track and, except as otherwise provided in sections 7 and 9 of this regulation, in industry turnouts and spotting areas, in addition to the requirements of NAC 705.160, must:

(a) Be present on each side of the track not less than 50 feet in advance of the turnout;

(b) Be not less than 2 feet in width;

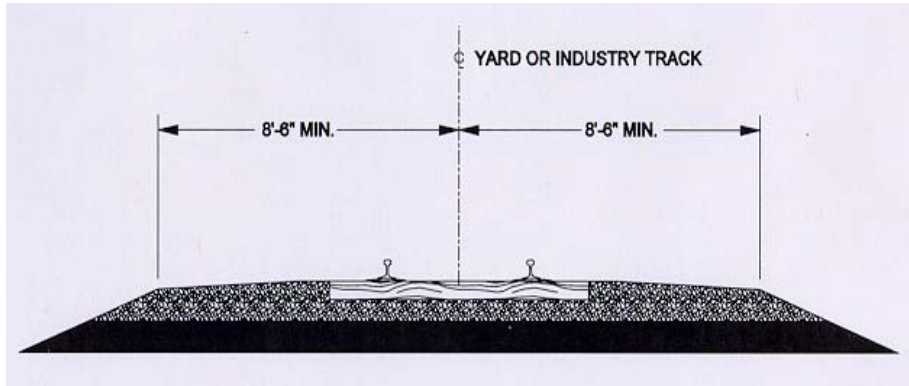
(c) Provide a minimum side clearance of 8 feet 6 inches from the center line of the track to the outside edge of the walkway; and

(d) If the track is in a yard where substantial switching is performed, be:

(1) Present between tracks;

- (2) Present alongside tracks bordering the yard or switching area; and
- (3) If the tracks are 17 feet apart or less, continuous between the tracks.

2. The following diagram illustrates the requirements set forth in subsection 1:



Sec. 7. 1. Except as otherwise provided in sections 8 and 9 of this regulation, walkways alongside track at main line turnouts entering yards or serving industry tracks, in addition to the requirements of NAC 705.160, must:

(a) Be present on the switch stand side of the track from not less than 50 feet ahead of each switch stand to not less than 25 feet beyond the 12-foot-6-inch clearance point behind the switch stand;

(b) If 20 feet or more from the switch stand, be not less than 6 feet in width;

(c) If less than 20 feet but more than 4 feet from the switch stand:

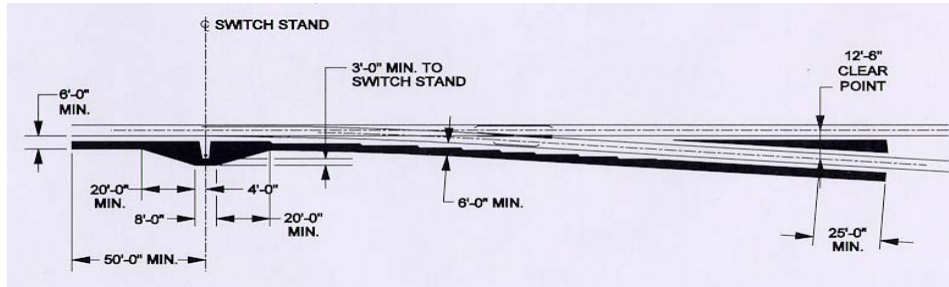
(1) Be not less than 6 feet in width;

(2) Have a straight outer edge; and

(3) Occupy a total area of not less than 120 square feet; and

(d) If 4 feet or less from the switch stand, be not less than 3 feet in width.

2. The following diagram illustrates the requirements set forth in subsection 1:



Sec. 8. 1. *Walkways alongside tracks at short line and branch line turnouts and, except as otherwise provided in section 9 of this regulation, at all power-operated turnouts, in addition to the requirements of NAC 705.160, must:*

(a) Be present on the switch stand side of the track from not less than 50 feet ahead of the switch stand to not less than the 12-foot-6-inch clearance point behind the switch stand;

(b) If 10 feet or more from the switch stand, be not less than 5 feet in width;

(c) If less than 10 feet, but more than 4 feet from the switch stand:

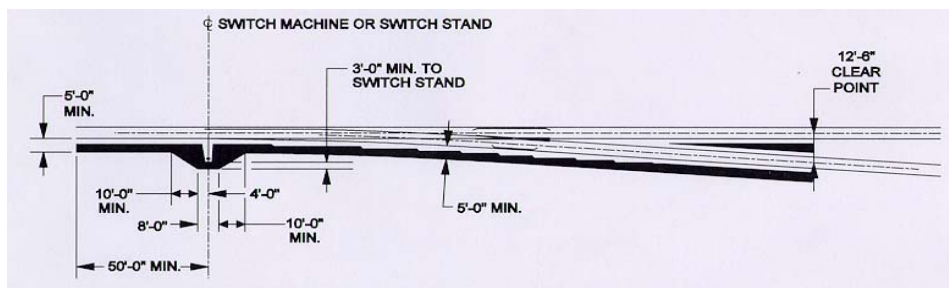
(1) Be not less than 5 feet in width;

(2) Have a straight outer edge; and

(3) Occupy a total area of not less than 39 square feet; and

(d) If 4 feet or less from the switch stand, be not less than 3 feet in width.

2. *The following diagram illustrates the requirements set forth in subsection 1:*



Sec. 9. 1. *Walkways alongside main line track at turnouts used frequently for switching cars, in addition to the requirements of NAC 705.160, must:*

(a) *Be present on the switch stand side of the track from not less than 125 feet ahead of the switch stand to not less than 25 feet beyond the 12-foot-6-inch clearance point behind the switch stand;*

(b) *If 20 feet or more from the switch stand, be not less than 6 feet in width;*

(c) *If less than 20 feet, but more than 4 feet from the switch stand:*

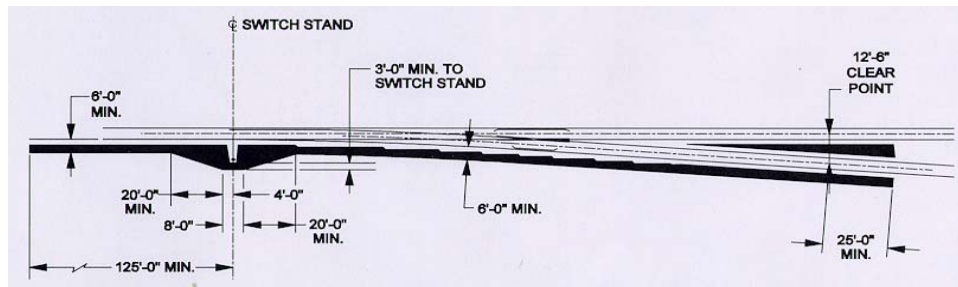
(1) *Be not less than 6 feet in width;*

(2) *Have a straight outer edge; and*

(3) *Occupy a total area of not less than 120 square feet; and*

(d) *If less than 4 feet from the switch stand, be not less than 3 feet in width.*

2. *The following diagram illustrates the requirements set forth in subsection 1:*



Sec. 10. 1. *Except as otherwise provided in subsection 2, the provisions of NAC 705.160 and sections 4 to 11, inclusive, of this regulation do not apply to track placed in revenue service before the effective date of this regulation.*

2. *If the commission determines, after notice and hearing, that the construction or maintenance of a walkway alongside any track placed in revenue service before the effective date of this regulation is:*

(a) *Necessary to eliminate an unsafe condition; and*

(b) *Practicable,*

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it will issue an order requiring the construction or maintenance of such a walkway alongside the designated track.

Sec. 11. *1. Except as otherwise provided in subsection 2, a small business that owns or operates any track in this state is exempt from the provisions of NAC 705.160 and sections 4 to 11, inclusive, of this regulation.*

2. If the commission determines, after notice and hearing, that exempting a small business that owns or operates any track in this state pursuant to subsection 1 poses an unreasonable threat of substantial harm to the public safety, it will order that business to eliminate any unsafe walkway condition.

3. As used in this section, “small business” has the meaning ascribed to it in NRS 233B.0382.

Sec. 12. *As used in sections 12, 13 and 14 of this regulation, unless the context otherwise requires, “hazardous material” means a material listed in 49 C.F.R. § 172.101.*

Sec. 13. *1. A railroad that transports hazardous materials by rail into, out of or through this state shall file with the commission a copy of each report of an incident involving a hazardous material that the railroad submits to the United States Department of Transportation pursuant to 49 C.F.R. § 171.16. The report must be received by the commission not later than 30 days after the discovery of the incident by the railroad.*

2. A railroad that transports hazardous materials by rail into, out of or through this state shall, not later than April 1 of each year, file with the commission:

(a) A map delineating the geographical limits of the operating divisions or districts of the railroad in this state;

(b) A primary and secondary telephone number for each railroad dispatcher responsible for train operations in each operating division or district in this state;

(c) The name and address of the railroad employee responsible for managing the transportation of hazardous materials for the railroad; and

(d) A listing by line points or segments of each hazardous material that the railroad transported into, out of or through this state during the immediately preceding calendar year if that material carried a code number of 48 or 49 pursuant to the standard transportation commodity code numbering system published by the Association of American Railroads.

3. The commission will grant an application for an exemption from any provision of this section pursuant to NAC 705.010 only upon a showing of good cause.

Sec. 14. A railroad that transports hazardous materials by rail into, out of or through this state shall develop and carry out emergency planning and response procedures for handling releases of hazardous materials. These procedures must address, without limitation, the:

1. Safe handling of hazardous materials;

2. Conducting of emergency drills and exercises;

3. Specification of the resources to be provided and the actions to be taken by the railroad; and

4. Identification of:

(a) Federal, state and local emergency response agencies and other governmental entities to be notified;

(b) Contact persons in each such agency and entity; and

(c) Resources that may be provided and actions that may be taken by each such agency and entity.

Sec. 15. NAC 705.010 is hereby amended to read as follows:

705.010 1. Any natural person, partnership, firm or corporation engaged in the business of operating a railroad within the State of Nevada, or any governmental agency, may apply to the commission for exemption from *any or all of* the provisions of this chapter. The application must be in writing and must set forth the reasons for which the exemption is sought.

2. Each application must be accompanied by proof that a copy of the complete application was served on all railroads using the railroad lines upon which exemption is sought and upon the city or county in which the site of the proposed exemption is located.

3. The commission may dispense with a hearing and , *except as otherwise provided in section 13 of this regulation and subsection 4 of this section*, either grant or deny the application if no protest to the exemption is filed within 30 days by or on behalf of any interested party served with a copy of the application.

4. The commission will grant an exemption from the provisions of NAC 705.160 and sections 4 to 11, inclusive, of this regulation only if it determines that compliance is, under the totality of the circumstances, not necessary to ensure the safety of railroad employees and other persons who have duties in proximity to trains.

5. Any exemption granted is limited to the particular case covered by the application.

6. The commission will designate a reasonable duration for any exemption granted pursuant to this section.

Sec. 16. NAC 705.030 is hereby amended to read as follows:

705.030 1. Minimum side clearances from center line of tangent standard gauge railroad tracks, which are used or proposed to be used for transporting freight cars, must be as follows:

Item Description	Minimum Side Clearance From Center Line of Track
(a) All structures, except those specifically mentioned below.	8 ft. 6 in.
(b) Platforms:	
(1) Eight inches or less above top of rail.	4 ft. 8 in.
(2) Four feet or less above top of rail.	7 ft. 8 in.
(3) Four feet six inches or less above top of rail when used principally for loading or unloading refrigerator cars or other cars used in lieu thereof.	<i>8 ft. 0 in.</i>
Stepped platforms combining two or more of the above platform clearances are not permitted. Existing platforms constructed before June 21, 1976, may be extended at the existing clearance, provided that the clearance, unless otherwise permitted by this chapter, may not be less than 6 feet 6 inches	

from the center line of the track.

(c) Poles: All poles. 8 ft. 6 in.

(d) Through bridges supporting track affected and tunnels. 8 ft. 0 in.

(e) Block signals and switch stands:

(1) Switch boxes, switch-operating mechanisms and accessories necessary for the control and operation of signals and interlocks projecting 4 inches or less above the top of rail. 3 ft. 0 in.

(2) Block signals and switch stands 3 feet or less above top of rail and located between tracks where not practicable to provide clearances otherwise prescribed in the chapter. 6 ft. 0 in.

(3) All other block signals and switch stands. 8 ft. 6 in.

(f) Water columns and oil columns. 8 ft. 0 in.

(g) Through bridges, handrails, water barrels and refuge platforms on bridges and trestles, water columns, oil columns, block signals, cattle guards

and cattle chutes or portions thereof, 4 feet or less above top of rail may have clearances decreased to the extent defined by a line extending diagonally upward from a point level with the top of rail and 5 feet distant laterally from a center line of track; provided that the minimum clearance for such handrails is 7 feet 6 inches and the minimum clearance for fences of cattle guards is 6 feet 9 inches.

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|--|--|
| (h) Walkways on designated and newly constructed bridges and trestles. | 8 ft. 0 in. to outside edge of walkway |
| (i) All other objects and articles. | 8 ft. 6 in. |

2. All minimum side clearances prescribed in this section are for tangent track. In general, all structures adjacent to curved track must have a minimum side clearance 1 foot greater than that required for tangent track. Where space is limited, the minimum side clearance for structures adjacent to tracks of not over 12 degree curvature must be the same as for tangent track, but if over 12 degree curvature, 1/4 inch must be added to the equivalent minimum side clearance required for tangent track for each degree of the curve. Where track contains superelevation, minimum side clearances will be increased as necessary to give the equivalent clearances based on tangent track.

3. Minimum side clearances authorized in this section are applicable to tracks on which freight cars having a maximum overall width not greater than 10 feet 10 inches are transported. On tracks over which freight cars of greater width are transported or proposed to be transported, the minimum side clearances will be increased not less than one-half of the additional width.

Sec. 17. NAC 705.070 is hereby amended to read as follows:

705.070 ~~{A#}~~

*1. Except as otherwise provided in subsection 2, all clearances of electrical construction over, above, adjacent to, along or across railroads must conform to the requirements specified in the ~~["Rules for Overhead and Underground Lines for Electric Utilities," in amendments thereto or supplements thereof, currently]~~ *National Electrical Safety Code* as adopted by the commission ~~{}~~ *pursuant to NAC 704.450* or in such other or further regulations as may be adopted by the commission . ~~{, superseding or amplifying those rules, except with respect to the installations at lawful clearances when installed.}~~*

2. The provisions of subsection 1 do not apply to an installation at a clearance if that installation complied fully with the requirements for installations at the time it was installed.

Sec. 18. NAC 705.090 is hereby amended to read as follows:

705.090 Common carrier railroads operating in Nevada, are exempted from compliance with the requirements of subsection 3 of NAC 705.020 and subsection 3 of NAC 705.030 in the movement of freight cars ~~{of a height exceeding 15 feet 1 inch but not greater than 15 feet 6 inches from the top of the rail to the top of the running board, and cars}~~ exceeding 10 feet 8 inches but not greater than 10 feet 11 inches in width overall, subject to the following conditions:

1. ~~{Each car exceeding 15 feet 4 inches in height but not greater than 15 feet 6 inches from the top of the rail to the top of the running board, the movement of which is authorized, must be}~~

~~permanently marked, stenciled or placarded. The markings must be legibly maintained and read as follows: "This car EXCESS HEIGHT." The words "EXCESS HEIGHT," must be approximately 7 inches wide by 10 inches high.~~

~~—2.—~~ Each car exceeding 10 feet 10 inches in width overall, the movement of which is authorized, must be ~~[permanently marked, stenciled or placarded. The markings]~~ *placarded. The placarding* must be legibly maintained and read as follows: "This car EXCESS WIDTH." ~~[The words, "EXCESS WIDTH," must be approximately 7 inches high and 10 inches wide.~~

~~—3.—~~ The words prescribed in subsections 1 and 2 must be permanently marked on cars which are owned as soon as practicable with a 3/4 inch stripe outlining an area not less than 7 inches by 10 inches, such stripes and lettering of a color contrasting with the color of the body of the car.

~~Required markings and]~~

2. *Required* placarding must be placed on the side adjacent to the ladder or handholds near the floor line of the car at each of the four corners.

Sec. 19. NAC 705.100 is hereby amended to read as follows:

705.100 1. ~~[If a failure of required equipment or standards of maintenance occurs in a caboose or locomotive after it has begun to move, the railroad operating that caboose or locomotive shall not be deemed in violation of this chapter if the failure of equipment or deficiency in maintenance is corrected at the next terminal where the required maintenance may reasonably be performed.~~

~~—2.—~~ The railroad must provide a defect and repair register for equipment on each caboose to permit the recording of defects noted in railroad equipment, the date repairs were made and the name of the person who makes those entries in the register. The register and the locomotive inspection report required by federal regulation must be available for inspection by a

~~representative of the commission at any reasonable time.]~~ *Except as otherwise provided in subsection 2, a railroad operating in this state shall operate not less than one facility in northern Nevada and one facility in southern Nevada for the maintenance or replacement of end-of-train telemetry devices and visible placarding.*

2. *Subsection 1 does not apply to a railroad operated in this state:*

(a) *By a government;*

(b) *By an industrial concern on its own property;*

(c) *As an excursion railroad for the sole purpose of transporting tourists on limited round trips that do not cross state lines; or*

(d) *As a short line railroad.*

Sec. 20. NAC 705.110 is hereby amended to read as follows:

705.110 1. ~~[The standard set forth in 49 C.F.R. § 229.119(d) is hereby adopted by reference. Volume 200-399 is available from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, at a price of \$7.50.~~

~~—2.]~~ A heating facility ~~[must be maintained]~~ capable of producing a temperature of at least 68 degrees Fahrenheit (19.8 degrees Centigrade) ~~[in a standard]~~ *must be maintained in each* caboose. The temperature must be taken at the center of the caboose compartment under normal winter weather conditions with doors and windows closed.

~~[3.]~~ 2. Weather stripping or weatherproof sash must be installed and maintained on all windows and doors in the caboose to seal openings against drafts, moisture and dust.

Sec. 21. NAC 705.120 is hereby amended to read as follows:

705.120 1. ~~[Wherever]~~ *If* glass or alternate glazing materials are used in any ~~[railroad car or coach]~~ *caboose* used to carry train crews, ~~[they]~~ *the glass or alternate glazing materials* must

be of the safety glass type ~~[. They]~~ *and* must be so constructed, treated or combined with other materials as to comply with the specifications or requirements established by the American National Standards Institute Safety Code Z26.1. Broken glass must be replaced and glass which has cracks more than 1 foot in length, intersecting cracks or cracks which distort vision must be replaced.

2. All doors must be equipped with latches or otherwise secured to prevent them from swinging under normal operating conditions.

3. Seats on chairs and benches in ~~[locomotive and]~~ cabooses must be padded or provided with cushioning of at least 3 inches in thickness.

4. Stanchions, grab handles or bars must be installed at entrances and exits and at other locations within the convenient reach of employees moving about the caboose while a train is in motion. A bar, commonly known as a “monkey bar,” must be installed in a horizontal position in the cupolas of cabooses where possible.

Sec. 22. NAC 705.130 is hereby amended to read as follows:

705.130 An adjustable, shielded electric light must be provided for the illumination of the caboose desk, and a separate light must be provided to illuminate the remainder of the interior of ~~[railroad cars and coaches]~~ *any caboose* used to carry train crews.

Sec. 23. NAC 705.150 is hereby amended to read as follows:

705.150 1. Every railroad shall construct and maintain adjacent to at least one side of its tracks, walkways on all newly constructed bridges and trestles.

2. Every railroad shall construct and maintain adjacent to at least one side of its tracks walkways on all bridges and trestles designated by the commission after a hearing. Except as

provided in subsection 3, walkways must be located so that they will provide a minimum side clearance of 8 feet from the center of the track to the outside edge of the walkway.

3. Compliance with the 8-foot requirement referred to in subsection 2 will be waived by the commission with regard to all designated bridges and trestles which presently have minimum side clearances of less than 8 feet if the common carrier railroads are able to show to the commission's approval that compliance with the 8-foot requirement is structurally or economically unfeasible.

4. All walkways must be kept free from obstacles which would render them unsafe or difficult to traverse on foot, except as to those facilities whose minimum clearances are prescribed by other sections of this chapter.

5. Walkways must be equipped with a securely attached handrail located on the side of the walkway farthest from the track, except no handrails are required on through girder structures. Handrails must be located so as to comply with the clearance standards set forth in ~~[subsection]~~ *paragraph (g) of subsection 1* of NAC 705.030.

6. ~~[Construction of walkways on all designated bridges and trestles must be completed at 2-year intervals in accordance with a time schedule established by the commission after a hearing.]~~ *Walkways on bridges and trestles must conform to the standards of width, surface and vertical placement as walkways alongside track set forth in NAC 705.160, except that the inside edge of such a walkway may be placed closer than 6 feet from the nearest rail when necessary.*

7. The provisions of this section do not apply to culverts.

Sec. 24. NAC 705.160 is hereby amended to read as follows:

705.160 1. ~~Every railroad shall provide and maintain a cleared area adjacent to its tracks on both sides of all specified train inspection areas, including hot box locators, switching areas and sidings to provide ready access to the entire length of the train to railroad employees for inspection purposes. The cleared area must be level laterally and longitudinally to permit employees to walk without leaning or being forced to brace themselves. The area must be maintained and kept reasonably free from vegetation, standing water or similar obstacles, which would render the walkways unsafe or difficult for travel by foot.~~

~~—2.]~~ *Except as otherwise provided in NAC 705.010 and subsection 4, a walkway alongside track that is required pursuant to the provisions of subsection 2 or sections 4 to 11, inclusive, of this regulation must be constructed and maintained in conformity to the standards set forth in this section and sections 4 to 11, inclusive, of this regulation.*

2. A walkway alongside track that is required pursuant to this section or sections 4 to 11, inclusive, of this regulation must:

(a) Provide a reasonably regular surface that is smooth and safe for use by railroad employees and other persons who have duties in proximity to trains.

(b) Be surfaced with crushed material, asphaltic concrete, planking or other material that does not compromise track drainage.

(c) Unless the grade of the track is greater than 1 inch in 8 inches, have a grade that is less than 1 inch in 8 inches.

(d) If the walkway is alongside track with a curve greater than 18 degrees, be not less than 1 foot wider than otherwise required.

(e) Be kept reasonably free of hazards and obstructions, including, without limitation, fuel, oil, sand, posts and rocks.

3. The provisions of this section will be temporarily suspended during periods of heavy rain or snow, derailments, rock and earth slides and similar abnormal periods and for a reasonable time thereafter to permit restoration work.

4. Compliance with the provisions of this section and sections 4 to 11, inclusive, of this regulation is not a complete defense to any civil action brought pursuant to NRS 705.260 to 705.340, inclusive, or for the violation of a railroad safety regulation or order.

Sec. 25. NAC 705.210 is hereby amended to read as follows:

705.210 1. Drinking water furnished pursuant to this chapter to meet the standards of the state board of health must be obtained from sources approved by that board. Cross connections between potable and unpotable water supplies are prohibited.

2. All locomotives and cabooses must have an adequate supply of sanitary, *cool* drinking water.

3. Drinking water must be provided by railroads in suitable, sanitary containers, conveniently placed for the use of employees, but not in toilet rooms. Each container must be equipped with either single service drinking cups or drinking fountains with a sanitary water supply.

4. All containers used to furnish drinking water must be thoroughly cleansed as often as necessary to assure a sanitary water supply.

5. *If no means of cooling water other than ice is available, a railroad shall provide a supply of ice adequate to cool the drinking water provided pursuant to this section.* If ice is used for cooling water, the water container must be so constructed and arranged that the drinking water will not come in contact with the ice.

Sec. 26. NAC 705.230 is hereby amended to read as follows:

705.230 1. Toilet facilities of flush chemical, incinerating, biodegradable or other equivalent acceptable design must be installed in each caboose and in each locomotive equipped to provide both motive power and control of the train. Toilet facilities must be in good operating condition.

2. All chemical toilets installed must comply with applicable federal regulations regarding construction and completion deadline. Containers must be charged with a chemical solution of proper strength and the contents must be agitated daily. When containers are two-thirds full, the contents must be disposed of in a sanitary manner.

3. The facilities must be cleaned as often as necessary to keep them in a clean and sanitary condition.

4. In locomotives, every toilet space must be separate from the cab and enclosed by a door. Each toilet room must be adequately ventilated and lighted. ~~[A holder for toilet paper must be installed in each toilet room and an]~~ *An* adequate supply of toilet paper must be provided by the railroads.

5. The provisions of this section do not apply to ~~[switch engines used exclusively]~~ *locomotives used primarily* for yard service ~~[.]~~ *if alternative facilities meeting the standards of this section are readily available to employees of the railroad.*

Sec. 27. NAC 705.310, 705.320, 705.330, 705.340, 705.350, 705.360, 705.370 and 705.380 are hereby repealed.

TEXT OF REPEALED SECTIONS

705.310 Definitions. As used in NAC 705.310 to 705.380, inclusive, unless the context otherwise requires:

1. “Commission” means the public utilities commission of Nevada.

2. “Hazardous material” means:

(a) Low specific activity material as defined in 49 C.F.R. § 173.403(n);

(b) Radioactive material as defined in 49 C.F.R. § 173.403(y);

(c) Material required to be labeled “Poison-Inhalation Hazard” by 49 C.F.R. § 172.203(k)(4) and subject to the requirements for placards and packaging of 49 C.F.R. §§ 172.505 and 173.3a; and

(d) The following materials which are subject to the requirements for placards in Table 1 of 49 C.F.R. § 172.504:

(1) Class A explosives as defined in 49 C.F.R. § 173.53.

(2) Class B explosives as defined in 49 C.F.R. § 173.88.

(3) Poison A as defined in 49 C.F.R. § 173.326.

(4) Flammable solids (DANGEROUS WHEN WET labels only) as defined in 49 C.F.R. § 173.150.

3. “Loading” and “unloading” includes placing or removing:

(a) A container of hazardous material, or a tank car or semitrailer containing hazardous material onto or from a flat car, trailer or other equipment owned by or under the control of a railroad to a sidetrack, truck or ramp for loading; or

(b) Hazardous material into or from a container, flat car, trailer or other equipment owned by or under the control of a railroad or a sidetrack, truck or ramp for loading.

“Loading” and “unloading” do not include any activities listed in paragraphs (a) and (b) that are conducted on a private track or private siding as those terms are defined in 49 C.F.R. § 171.8.

4. “Storage” means keeping any hazardous material for more than 48 hours.

705.320 Activities for which permit required. A person shall not:

1. Load or unload hazardous material or containers carrying hazardous material onto or from railroad equipment on property owned by or under the control of a railroad;

2. Transfer hazardous material from property owned by or under the control of a railroad to another means of transportation; or

3. Store hazardous material on property owned by or under the control of a railroad, without a permit issued by the commission.

705.330 Application for permit; fee.

1. An application for a permit must include:

(a) A map of the proposed site for loading, unloading, storage or transfer, including the indicators of its location on the track and all structures at the site;

(b) A report identifying each switch, siding, spur or branch of track at the site and its purpose;

(c) A copy of any report made by a federal or state inspector during the preceding 6 months on defects in the track and the remedial action taken;

(d) A summary of all major construction or other work on the track at the site during the preceding year;

(e) A summary of all hazardous material carried by the railroad during the preceding 12 months;

(f) A summary of all unintended releases of hazardous material during the preceding 12 months which were reported by the applicant pursuant to 49 C.F.R. §§ 171.16 and 171.17;

(g) An outline of the procedure to be used in the loading, unloading, transfer or storage of the hazardous material;

(h) A description of the measures to be used by the railroad to ensure that the hazardous material is safe from vandalism, theft or sabotage; and

(i) An outline of all plans to be used in the event of an accident.

2. The application must be accompanied by a fee of \$200.

705.340 Evaluation of application. In evaluating an application for a permit, the commission will consider:

1. The topography of the proposed site;

2. The proximity of the proposed site to:

(a) Centers of population;

(b) Heavily traveled highways;

(c) Hospitals;

(d) Schools;

(e) Sources of water; and

(f) Other sites for the storage of hazardous material;

3. The expected duration of the operation at the site;

4. The availability of alternative sites;
5. The quality of the track;
6. The security at the site;
7. The plans to be used in the event of an accident at the site;
8. The equipment and resources available in the event of an accident at the site; and
9. Any other pertinent information requested by the commission.

705.350 Expiration and renewal of permit.

1. A permit issued by the commission is valid for 1 year. Upon a showing of compelling need, the commission may issue a temporary permit which is valid while the application for an annual permit is pending.

2. An annual permit may be renewed if the applicant:

(a) Certifies that the information submitted in the original application is still correct, or he files such amendments to previously submitted information as are necessary to keep the information current; and

(b) Files a statement:

(1) Describing any relevant accident or release of hazardous material since the issuance or renewal of the permit, or if an accident or release has not occurred, a certification to that effect; and

(2) Summarizing the loading, unloading, transfer or storage conducted pursuant to the permit, as well as any incident involving the hazardous material.

3. An application for renewal must be submitted at least 60 days before the expiration of the permit and be accompanied by a fee of \$200.

4. If, at least 60 days before the expiration of the permit, the holder of a permit files an application for renewal which is complete and conforms with the requirements of this section, the permit does not expire until the application for renewal has been finally determined.

705.360 Suspension or revocation of permit. A permit may be suspended or revoked by the commission if:

1. An activity is being performed in violation of the terms of the permit;
2. The suspension or revocation is necessary to protect against risks to life and property; or
3. The permit was issued on the basis of false, fraudulent or misleading representations or information.

705.370 Notice of application; dismissal of application for lack of information.

1. The commission will give notice of any application received by it for a permit or renewal of a permit at least 30 days before the date on which the commission intends to take action.
2. The commission will dismiss an application for a permit without prejudice if:
 - (a) There is insufficient information upon which to issue a permit; or
 - (b) Additional information is requested by the commission from the applicant but not submitted.

705.380 Adoption of federal regulations by reference.

1. Every railroad subject to regulation by the commission shall comply with the provisions of 49 C.F.R. Parts 171, 172, 173 and 174, as those parts existed on November 1, 1985. Those parts are hereby adopted by reference.

2. A copy of a publication containing Parts 100 to 177, inclusive, of Title 49 of the Code of Federal Regulations may be obtained at a price of \$14 from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.