

**CHAPTER 619**

**INSPECTION AND INVESTIGATION OF RAILROADS**

**SUBCHAPTER 1**

**REVIEW AND MAINTENANCE**

**§7301. Railroads examined; annual report**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2013, c. 36, §12 (RP).

**§7302. Certificate of safety for passenger trains**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2013, c. 36, §12 (RP).

**§7303. Experienced engineer to examine bridges**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2013, c. 36, §12 (RP).

**§7304. Managers notified when road unsafe**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2013, c. 36, §12 (RP).

**§7305. Court proceedings for noncompliance**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2013, c. 36, §12 (RP).

**§7306. Passenger trains prohibited from running over unsafe roads**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2013, c. 36, §12 (RP).

**§7307. Crossings and bridges**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2013, c. 36, §12 (RP).

**§7308. Safety provisions**

**(REPEALED)**

## SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2013, c. 36, §12 (RP).

**§7309. Orders of the commissioner**

The Superior Court is given full jurisdiction to enforce compliance with any order issued by the Commissioner of Transportation under this chapter. It shall be the duty of the commissioner to see that the rights of the public under this subchapter are fully protected. [PL 1989, c. 398, §9 (NEW).]

## SECTION HISTORY

PL 1989, c. 398, §9 (NEW).

**§7310. Prior orders and rules effective**

All rules, orders and decrees in effect prior to October 24, 1977, which were issued by the Public Utilities Commission pursuant to the provisions in former Title 35, which provisions are embraced in this subchapter, shall remain in full force and effect until the Commissioner of Transportation has acted pursuant to applicable provisions of this subchapter. [PL 1989, c. 398, §9 (NEW).]

## SECTION HISTORY

PL 1989, c. 398, §9 (NEW).

**§7311. Investigation and reports of accidents**

**1. Investigation.** The Commissioner of Transportation shall investigate all accidents resulting in loss of human life, or personal injury requiring 3 full days of hospitalization, occurring upon the premises of any railroad company or directly or indirectly arising from or connected with its maintenance or operation. Any accident so occurring and which results in property damage or personal injury that requires less than 3 full days of hospitalization also may be investigated if, in the judgment of the commissioner, the public interest requires it. The commissioner may hold hearings in connection with any investigation and shall reasonably notify the railroad company of the time and place of the hearing, and the railroad company may then be heard and the commissioner shall have the power to make such order or recommendation with respect thereto as deemed just and reasonable.

[PL 1989, c. 398, §9 (NEW).]

**2. Reports of accidents.** Every railroad company is required to file with the Commissioner of Transportation, under such rules as the commissioner may prescribe, reports of accidents so occurring, in the manner and form designated by the commissioner. In case of accidents resulting in loss of human life, such reports shall be made immediately by telephone or telegraph, followed by a detailed written report.

[PL 1989, c. 398, §9 (NEW).]

**2-A. State, county, municipal notice.** In the event of a main line train derailment involving hazardous materials, a railroad company shall make a 9-1-1 call, as defined in Title 25, section 2921, subsection 17, to alert first responders, including municipal and county fire chiefs in the jurisdiction, and provide timely notice to the Department of Public Safety, the Department of Environmental Protection and the Maine Emergency Management Agency. The Maine Emergency Management Agency may notify the Department of Transportation and the municipal and county fire chiefs located within the affected area of the accident.

[PL 2023, c. 618, §4 (NEW).]

**2-B. Public notice.** In the event of a main line train derailment involving hazardous materials, the Maine Emergency Management Agency shall, if requested by a municipal or county fire chief serving as incident commander, issue an alert through an emergency alert system or wireless emergency alert system for the area identified by the incident commander.

[PL 2023, c. 618, §5 (NEW).]

**2-C. Failure to issue notice.** If a railroad company fails to provide timely notice as required under subsection 2-A, the Commissioner of Transportation may assess a fine up to \$25,000 per failed notice per day in the event of a main line train derailment involving hazardous materials.

[PL 2023, c. 618, §6 (NEW).]

**3. Disposition of reports.** The orders and recommendations of the Department of Transportation, and accident reports and all other materials in the department's file pertaining to such railroad company accidents, shall be made available, upon request, to the railroad company, the injured person or their representatives.

[PL 1989, c. 398, §9 (NEW).]

**4. Reports inadmissible as evidence.** The orders and recommendations of the Department of Transportation, accident reports and any other material in the department's file pertaining to such accidents obtained or prepared pursuant to an investigation under this section shall not be admitted as evidence in any suit or action for damages growing out of any matter mentioned in any such investigation.

[PL 1989, c. 398, §9 (NEW).]

**5. Routine inspections.** Upon request of the Commissioner of Transportation, a railroad company shall submit reports of inspections conducted pursuant to federal agency requirements under 49 Code of Federal Regulations, Subtitle B, Chapter II by a railroad company of trains, rails, rail safety equipment and rail corridors. Records under this subsection are not public records pursuant to Title 1, section 402, subsection 3, paragraph U.

[PL 2023, c. 618, §7 (NEW).]

#### SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2023, c. 618, §§4-7 (AMD).

### **§7312. Participation in the Federal Railroad Administration Track and Equipment Safety and Inspection Program**

The commissioner shall have the authority to participate in carrying out investigative and surveillance activities in connection with any rule, regulation, order or standard prescribed by the Secretary of Transportation of the United States under the authority of the Federal Railroad Safety Act of 1970, Public Law 91-458, provided that the commissioner shall comply with all the requirements imposed by the United States Code, Title 45, section 435. The commissioner may employ such expert, professional or other assistance as is necessary to carry out the activities authorized by this section. [PL 1989, c. 398, §9 (NEW).]

#### SECTION HISTORY

PL 1989, c. 398, §9 (NEW).

### **§7313. Mandatory training offered by railroad companies to fire and emergency medical services**

**1. Training.** A railroad company shall offer training to each fire department, each local organization for emergency management and each organization that has a mutual aid agreement with each fire department and each local organization for emergency management along routes over which the railroad company transports oil or other hazardous materials. Additional training must be offered to each fire department and each local organization for emergency management at least once every 3 years after the initial training provided for under this subsection.

[PL 2023, c. 618, §8 (NEW).]

**2. Hazardous materials; techniques to assess hazards.** The training under subsection 1 must address the general hazards of oil and hazardous materials that travel through the jurisdiction or mutual aid agreement jurisdiction of each fire department and local organization for emergency management;

techniques to assess hazards to the environment and to the safety of first responders and the public; factors that an incident commander must consider in determining whether to attempt to suppress a fire or to evacuate the public and first responders from an area; and other strategies for initial response by first responders.

[PL 2023, c. 618, §8 (NEW).]

**3. Suggested protocols.** The training under subsection 1 must include suggested protocols or practices for first responders to safely respond to a derailment; methods to identify railroad cars and hazardous material contents; first responder safety issues; railroad response tactics; public notification and evacuation considerations; environmental contamination response; railroad response personnel and resources coordination at an accident; and any other protocols and practices for safe initial local response, including the notification requirements and the responsibilities of an incident commander during any rail accident involving oil or other hazardous materials.

[PL 2023, c. 618, §8 (NEW).]

#### SECTION HISTORY

PL 2023, c. 618, §8 (NEW).

### §7314. Post-accident reporting requirements

**1. Post-accident review.** After an accident involving hazardous materials subject to review by the applicable federal agency or when an accident is not reviewed by the applicable federal agency but review is considered necessary by the Commissioner of Transportation, the commissioner shall ensure that a post-accident review and analysis is performed in a timely manner. The commissioner's review and analysis must be undertaken under an agreement with an entity having relevant knowledge and experience that is fully independent of the railroad carrier's companies.

[PL 2023, c. 618, §9 (NEW).]

**2. Evaluation requirements.** The Commissioner of Transportation's review and analysis process must include an after-action review and must evaluate, at a minimum, processes occurring during the accident for emergency assessment, hazard operations, population protection and accident management. The review and analysis must be designed to minimize disruption of the federal review of the accident.

[PL 2023, c. 618, §9 (NEW).]

**3. Report.** By March 1st following any calendar year in which one or more post-accident reviews and analyses are performed, the Commissioner of Transportation shall submit a report to the joint standing committees of the Legislature having jurisdiction over railroads and public records matters. The report must:

A. Provide a summary of the accidents, as long as the information provided does not include information excluded from the definition of "public records" pursuant to Title 1, section 402, subsection 3, paragraph U; [PL 2023, c. 618, §9 (NEW).]

B. Identify findings, conclusions and process changes; [PL 2023, c. 618, §9 (NEW).]

C. Include any costs associated with accidents; and [PL 2023, c. 618, §9 (NEW).]

D. Make recommendations for changes to laws and rules, if any. [PL 2023, c. 618, §9 (NEW).]

[PL 2023, c. 618, §9 (NEW).]

#### SECTION HISTORY

PL 2023, c. 618, §9 (NEW).

## SUBCHAPTER 2

## FINANCIAL ASSISTANCE

### §7320. Application for financial assistance

**1. Annual application and approval required.** Any person, corporation, partnership or other business entity which provides railroad transportation for compensation in the State, or seeks to acquire or construct additional rail lines in the State, shall apply to the Department of Transportation for the privilege of receiving financial assistance from the State, for the year in question. Financial assistance from the State is defined as grants, loans, subsidies, tax exemptions, cost reimbursement for maintenance of railroad crossings or payments from other sources. The applicant may not receive the financial assistance unless the application is approved.

[PL 1989, c. 398, §9 (NEW).]

**2. Criteria.** In determining approval for an application under this section, the department shall consider, among other matters:

A. The need for this rail service; [PL 1989, c. 398, §9 (NEW).]

B. The effect of the rail service on the health, safety and general welfare of the people of the State; and [PL 1989, c. 398, §9 (NEW).]

C. For any entity which already provides railroad transportation for compensation within the State, the record of that railroad in investing within the State, maintaining track and rights-of-way within the State, use of funds from previous financial assistance from the State and the safety, reliability and efficiency of the service actually provided by that railroad within the State. [PL 1989, c. 398, §9 (NEW).]

[PL 1989, c. 398, §9 (NEW).]

**3. Procedure for entities seeking to acquire or construct additional rail lines.** An entity seeking to acquire or construct an additional rail line or lines shall proceed in accordance with this subsection.

A. The applicant shall provide notice by:

(1) Publishing an accurate and understandable summary of the application in a newspaper of general circulation in each area affected by the rail service;

(2) Mailing a copy of its application to all shippers which used the rail line during any of the 12 months prior to the date the application was filed, as well as those shippers who may reasonably be expected to use that line within one year from the date of application;

(3) Mailing a copy of its application to the employee representatives of the employees of the railroad or who may be affected by a proposed rail service; and

(4) Mailing a copy of its application to any municipality served by the rail line or in which that service may be affected. [PL 1989, c. 398, §9 (NEW).]

B. After receipt of a substantially complete application and compliance by the applicant with the notice requirements of this subsection, the department shall hold a public hearing on any application covered by this subsection, in accordance with its rules. [PL 1989, c. 398, §9 (NEW).]

C. Any party affected by the application has the right to intervene in a proceeding under this section. Intervention of other parties shall be granted liberally in order that a complete record may be developed. [PL 1989, c. 398, §9 (NEW).]

[PL 1989, c. 398, §9 (NEW).]

**4. Procedure for existing operations.** An entity which intends only to continue existing operations shall proceed in accordance with this subsection.

A. After receipt of a substantially complete application, the department shall provide notice of the application and opportunity for hearing on any application covered by this subsection by sending

an accurate and understandable summary of the application to a newspaper of general circulation in each area affected by the rail service for publication at the applicant's expense. [PL 1989, c. 398, §9 (NEW).]

B. The department may hold a public hearing on the application and shall hold a hearing when a request for a hearing shows a substantial likelihood that the application may be denied or granted with qualifications under the criteria of subsection 2 and the hearing is requested by:

- (1) A shipper or shippers whose traffic on the railroad line totaled 500 tons in the year preceding the application;
- (2) Any municipality having a siding, terminal, station or agency station of the railroad line within its bounds; or
- (3) A petition of 25 individuals who state that they are affected by the operation of the railroad.

The hearing shall be subject to the rules of the department. [PL 1989, c. 398, §9 (NEW).]  
[PL 1989, c. 398, §9 (NEW).]

**5. Approval.** At the conclusion of the proceedings and within 30 days of the conclusion of the public hearing, if any, the department shall:

- A. Approve the application as filed; [PL 1989, c. 398, §9 (NEW).]
- B. Approve the application with conditions as the department determines necessary to assure that the investment of state funds in providing assistance for the rail service will be consistent with the public interest; or [PL 1989, c. 398, §9 (NEW).]
- C. Deny the application. [PL 1989, c. 398, §9 (NEW).]

Approval shall be valid for a year. In the case of denial, reapplication shall be in accordance with the rules of the department. Approval may be revoked in case of noncompliance with any conditions.  
[PL 1989, c. 398, §9 (NEW).]

**6. Temporary approval.** When the commissioner determines that the public interest requires immediate financial assistance from the State to a railroad, the department may issue temporary approval for a period not to exceed 90 days without notice or hearing.  
[PL 1989, c. 398, §9 (NEW).]

**7. Appeal.** Any applicant or intervenor aggrieved by the decision of the department under subsection 5 has a right to judicial review in accordance with the Maine Administrative Procedure Act, Title 5 chapter 375, subchapter VII.  
[PL 1989, c. 398, §9 (NEW).]

**8. Rules.** The department shall promulgate rules concerning the implementation and enforcement of this section.  
[PL 1989, c. 398, §9 (NEW).]

**9. Existing operations; temporary approval.** Any operation ongoing as of the effective date of this section, as long as the ownership or management of that operation is not transferred to another entity, shall be deemed approved until March 1, 1990.  
[PL 1989, c. 398, §9 (NEW).]

**10. Consolidation of hearings.** The Department may consolidate any hearing under this section with another hearing concerning railroad service by the same entity in the same area.  
[PL 1989, c. 398, §9 (NEW).]

#### SECTION HISTORY

PL 1989, c. 398, §9 (NEW).

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