



ATTENTION: TP&D, DESIGN, CONSTRUCTION, MAINTENANCE AND
TRAFFIC OPERATIONS ENGINEERS
MEMORANDUM

SPECIAL PROVISION AND/OR SPECIFICATION CHANGE MEMORANDUM 47-09

TO: District Engineers **Date:** September 18, 2009

FROM: Thomas R. Bohuslav, P.E. *[Signature]*

SUBJECT: One-Time Use (OTU) Special Provisions 007---XXX (04), "Legal Relations and Responsibilities"

Beginning with the September 2009 letting, we have merged Item 007-001 - Statewide Use Special Provision requiring Railroad Protective Liability Insurance (RPI) for any work within any railroad company right of way with the OTU Special Provision 007---XXX and have removed both from the TxDOT Specifications - 2004 English Special Provision web page. We have also removed Item 007-037 - Statewide Use Special Provision required for all projects in BNSF Railway Company right of way from the TxDOT Specifications - 2004 English Special Provision web page. This provision is now incorporated into all three new BNSF SP 007 templates.

The new special provisions include more detailed information pertaining to the contractor's responsibility when working within a specific railroad company's right of way. Currently the railroads that require this new special provision will use the following newly created templates:

The Statewide Special Provision 007---001 with the OTU ADDENDUM 1 to Item 7 has been replaced with the following OTU Special Provision 007---XXX templates:

BNSF Railway Company (BNSF), Kansas City Southern Railway Company (KCSR), and Union Pacific Railroad Company (UPRR) have separate templates for each railroad company providing for Railroad Protective Insurance and Railroad Right of Entry (ROE) requirements in the amount of:

- \$2,000,000 and \$6,000,000 of RPI for construction and maintenance projects including ROE sample.
- \$5,000,000 and \$10,000,000 of RPI for bridge and structure construction projects including ROE sample.
- \$2,000,000 and \$6,000,000 of RPI for seal coat, stripping, etc. - no ROE required.

All other railroad companies require RPI in the amount of \$2,000,000 and \$6,000,000 for construction and maintenance projects, seal coat, stripping, etc., and RPI of \$5,000,000 and \$10,000,000 for bridge and structure construction projects. ROE is not required for these other railroad companies.

The Traffic Operations Division Railroad Section (TRF-RR) will maintain the new OTU SP 007---XXX templates. Each Class 1 railroad (BNSF, UPRR, KCS) have three versions as noted above. The UPRR and BNSF ROE agreements have been approved and will be attached to the new OTU SP 007---XXX templates. The KCSR and Rio Valley Switching Company, a short line, ROE agreements have not been approved yet. TRF-RR will distribute these once they are available.

When submitting a request for the OTU 007 for railroad requirements, include the name of the railroad, location, and note if railroad over or underpass are involved. If more than one railroad company is involved, submit pertinent information for each railroad. Districts can request to have TRF-RR submit the request for an OTU SP 007---XXX to CST_RDWY_SPECS or the district may request the appropriate template from TRF-RR and submit the request directly to CST_RDWY_SPECS. Please note that October 1, 2009, TRF-RR will be transferred to the new Rail Division.

Please disseminate this information to your Transportation Planning & Development, Design, Construction, Maintenance, and Traffic Operations Engineers.

cc: TxDOT Specification Committee
Ms. Janice Brown, FHWA