

FORT SMITH RAILROAD CO.

RIGHT OF ENTRY TARIFF FSR-7007

THE FOLLOWING RULES AND CHARGES APPLY FOR ENTRY UPON THE PROPERTY AND RIGHT OF WAY OF THE FORT SMITH RAILROAD CO. ("RAILROAD").

RIGHT OF ENTRY

THIS TARIFF IS AUTHORIZED BY THE INTERSTATE COMMERCE ACT, AS AMENDED, 49 U.S.C. SECTION 10702.

RAILROAD PROPERTY AND RIGHT-OF-WAYS ARE AN INTEGRAL AND INDIVISIBLE COMPONENT OF THE RAILROAD'S TRANSPORTATION FACILITIES. RATES AND PRACTICES INVOLVING RAILROAD FACILITIES ARE SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE ACT, BY VIRTUE OF SECTION 10501(b).

RAILROAD OPERATIONS AND OPERATING PROPERTY INVOLVE SIGNIFICANT HAZARDS. THE SAFETY AND SECURITY OF RAILROAD OPERATIONS ARE OF UTMOST IMPORTANCE. UNAUTHORIZED ENTRY ONTO RAILROAD PROPERTY AND/OR RIGHT OF WAY CONSTITUTES A THREAT TO THE SAFETY AND SECURITY OF RAILROAD OPERATIONS, AND TO PUBLIC SAFETY, AND IS AN INTERFERENCE WITH INTERSTATE COMMERCE. UNAUTHORIZED ENTRY ONTO RAILROAD PROPERTY IS DANGEROUS, AND INTERFERENCE WITH RAILROAD OPERATIONS MAY ALSO CONSTITUTE A VIOLATION OF FEDERAL LAW (18 U.S.C. Sections 1991-1992).

THE FOLLOWING RATES AND PRACTICES SHALL APPLY TO ANY ENTRY UPON FSR'S PROPERTY AND/OR RIGHT OF WAY:

APPLICATION FOR RIGHT OF ENTRY MUST BE MADE TO:

**Manager, Right of Way Agent
Fort Smith Railroad Co.
5619 DTC Parkway, Suite 650
Greenwood Village, CO 80111
Email: apps@pioneer-railcorp.com**

ANYONE SEEKING TO ENTER UPON RAILROAD OPERATING PROPERTY, INCLUDING ANY PORTION OF THE RIGHT OF WAY (EXCEPT LEGALLY AUTHORIZED VEHICLES AND/OR PEDESTRIANS AT OPEN PUBLIC CROSSINGS), SHALL PAY AN APPLICATION/ADMINISTRATIVE FEE OF \$1,500.00, ENTER INTO A RIGHT OF ENTRY AGREEMENT, PROVIDE REQUIRED INSURANCE, AND COMPLY WITH ALL FEDERAL RAILROAD ADMINISTRATION AND RAILROAD RULES,

INCLUDING RAILROAD'S FLAGGING TARIFF, FT-FSR-9010. EXCEPT IN CASES OF EMERGENCY, APPLICATIONS SHOULD BE MADE AT LEAST 30 DAYS PRIOR TO REQUESTED DATE OF ENTRY. A WRITTEN PERMIT WILL BE ISSUED UPON COMPLETION OF ALL REQUIREMENTS. NO VERBAL AUTHORIZATIONS WILL BE GIVEN. RAILROAD RESERVES THE RIGHT TO REJECT ANY REQUEST IF THE APPLICANT IS UNINSURED; THE ACTIVITY IS DEEMED UNSAFE, A THREAT TO RAILROAD OPERATIONS, OR INAPPROPRIATE FOR A RAILROAD FACILITY; OR WOULD BE INCONSISTENT WITH RAILROAD'S OTHER AGREEMENTS.

WIRELINES, PIPELINES, AND OTHER UNDERGROUND FACILITIES MAY BE LOCATED UNDER THE RAILROAD RIGHT OF WAY. SPECIFIC AUTHORIZATION MUST BE GIVEN FOR ANY DIGGING OR EXCAVATION ON RAILROAD RIGHT OF WAY, AS DAMAGE TO SUCH UNDERGROUND FACILITIES COULD CREATE PUBLIC SAFETY RISKS, INCLUDING DAMAGE TO SIGNAL WIRES, EXPLOSIONS, LEAKS, AND OTHER DANGERS THAT COULD LEAD TO SERIOUS LOSSES, INJURY OR DEATH.

INSTALLATION OF ANY FACILITIES, TEMPORARY OR PERMANENT, ON, UNDER, OR OVER RAILROAD PROPERTY, REQUIRES AN ADDITIONAL LICENSE. UNLICENSED FACILITIES MAY BE REMOVED BY RAILROAD AT ANY TIME, WITH OR WITHOUT NOTICE TO OWNERS/OPERATORS.

PERMITTEES ENTER UPON THE RAILROAD'S PROPERTY AND/OR RIGHT OF WAY AT THEIR OWN RISK, AND ACCEPT ITS CONDITION "AS IS, WHERE IS". RAILROAD FACILITIES ARE DEDICATED TO RAILROAD OPERATIONS, AND ARE NOT DESIGNED FOR PUBLIC USE OR FOR PRIVATE USE FOR OTHER PURPOSES. EXCEPT AS SPECIFICALLY STATED IN A WRITTEN RIGHT OF ENTRY AGREEMENT, RAILROAD ASSUMES NO LIABILITY, EXPRESSED OR IMPLIED, FOR THE SAFETY OF ANY PERMITTEE, OR FOR TRAINING, SUPERVISING, EQUIPPING, OR SUPPLYING ANY PERMITTEE.

RIGHT OF ENTRY PERMITS MAY BE REVOKED BY RAILROAD IF PERMITTEE VIOLATES THE TERMS THEREOF, INTERFERES WITH RAILROAD OPERATIONS, OR POSES AN UNREASONABLE THREAT TO SAFETY.

ISSUED: February 2, 2015**EFFECTIVE: March 1, 2015**

ISSUED BY:

**Manager, Right of Way Agent
FORT SMITH RAILROAD CO.
5619 DTC Parkway, Suite 650
Greenwood Village, CO 80111**