



SERVICE DATE

OCT - 6 2000

STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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October 5, 2000

**REQUEST FOR SMALL BUSINESS ECONOMIC IMPACT STATEMENT
INFORMATION**

(October 16, 2000)

RE: Railroad Operations Rulemaking
WAC 480-62
Docket No. TR-981102

TO INTERESTED PERSONS:

On September 15, 2000, Commission Staff sent a discussion draft of railroad operations rules to all interested persons. Staff held a workshop with interested persons regarding these rules on October 2, 2000. Written comments on these rules are due by October 16, 2000. In preparation for submitting the draft rules to the Commission for consideration as proposed rules, Staff is preparing a Small Business Economic Impact Statement (SBEIS). Staff has prepared a survey instrument to collect data which will be used to prepare the SBEIS.

Enclosed you will find the SBEIS survey. Also enclosed is a copy of the discussion draft which should be used as a basis for your SBEIS answers.

Please complete the survey and return it to the Commission no later than October 16, 2000.

Commission Staff encourages you to participate. If you have any questions or comments regarding the rulemaking proceeding, please contact Ahmer Nizam at (360)664-1345, or via e-mail at acnizam@wutc.wa.gov.

Sincerely,

Carole J. Washburn
Secretary

Enc.



Questionnaire

1. Company Name: _____ Company Contact: _____

2. How many employees do you have?

Full time: _____

Part time: _____ (days or hours/year)

3. What was the gross and net annual cost and revenue of your Washington operation for the past five years?

4. Please complete the following Table by indicating yes or no in the appropriate box?

Rules	Does the rule apply to your company? (y/n)	Status	Implication			
			Does the rule provide benefits to: (y/n)		Does the rule create costs to: (y/n)	
			Customers	Company	Customers	Company
Blockage of Public Grade Crossings (WAC 480-62-X2.5)						
Railroad Community Notice Requirements (WAC 480-62-X3.2)						
Crossing Surfaces (WAC 480-62-X2.6)						
Accident Reports (WAC 480-62-X3.3)						
Flaggers (WAC 480-62-X2.8)						
Passenger Carrying Vehicles (WAC 480-62-X2.9-10)						
Miscellaneous Reporting Requirements (WAC 480-62-X3.4)						
On Track Equipment (WAC 480-62-X2.11)						
Remote Controlled Operations (WAC 480-62-X3.5)						
Crossing Signal Circuitry (WAC 480-62-X2.3)						
Railroad Police Officers (WAC 480-62-X3.6)						

5. Please provide the direct benefits (e.g., reduced accidents, reduced litigation costs) and indirect benefits (increased volume of sales) from the implementation of each of the proposed rules.

Rules	Direct Benefit		Indirect Benefit	
	Qualitative	Quantity or monetary value	Qualitative	Quantity or monetary value
Blockage of Public Grade Crossings (WAC 480-62-X2.5)				
Railroad Community Notice Requirements (WAC 480-62-X3.2)				
Crossing Surfaces (WAC 480-62-X2.6)				
Accident Reports (WAC 480-62-X3.3)				
Flaggers (WAC 480-62-X2.8)				

Rules	Direct Benefit		Indirect Benefit	
Miscellaneous Reporting Requirements (WAC 480-62-X3.4)				
On Track Equipment (WAC 480-62-X2.11)				
Remote Controlled Operations (WAC 480-62-X3.5)				
Crossing Signal Circuitry (WAC 480-62-X2.3)				
Railroad Police Officers (WAC 480-62-X3.6)				

If there are qualitative benefits that you cannot quantify, please explain these benefits for each rule below.

- Blockage of Public Grade Crossings (WAC 480-62-X2.5)
- Railroad Community Notice Requirements (WAC 480-62-X3.2)
- Crossing Surfaces (WAC 480-62-X2.6)
- Accident Reports (WAC 480-62-X3.3)
- Flaggers (WAC 480-62-X2.8)
- Passenger Carrying Vehicles (WAC 480-62-X2.9-10)
- Miscellaneous Reporting Requirements (WAC 480-62-X3.4)
- On Track Equipment (WAC 480-62-X2.11)
- Remote Controlled Operations (WAC 480-62-X3.5)
- Crossing Signal Circuitry (WAC 480-62-X2.3)
- Railroad Police Officers (WAC 480-62-X3.6)

6. Please provide the direct costs (e.g., capital, operating and maintenance costs) and indirect costs (e.g., reduced revenue) due to the implementation of the proposed rules that are applicable to your company.

Cost items	Amount	
	Quantity	Cost
Labor		
Daily laborer (hrs or days)		
Regular Staff (hrs or days)		
Professional (consultant)		
Capital		
Rental		
Owned		
Annual maintenance cost		
Material cost (if any)		
Administrative cost		
Cost of reporting		
New record keeping or filing		
Permitting costs (specify)		
Opportunity Costs		
Other Costs- Specify		

7. How would the implementation of these rules affect your business? (Explain their advantages and disadvantages, and estimates of costs and benefits that are not listed in previous Tables)

8. If you are aware of similar rules in other states, compare the effect of these rules in Washington State (please discuss).

9. Please provide any estimates of incremental costs to your business for each of the rules listed in the table below:

Rules	Total Cost			Costs due to the rules (incremental)	
	Cost/hr	Cost/employee	Cost as % of revenue		
Blockage of Public Grade Crossings (WAC 480-62-X2.5)					
Railroad Community Notice Requirements (WAC 480-62-X3.2)					
Crossing Surfaces (WAC 480-62-X2.6)					
Accident Reports (WAC 480-62-X3.3)					
Flaggers (WAC 480-62-X2.8)					
Passenger Carrying Vehicles (WAC 480-62-X2.9-10)					
Miscellaneous Reporting Requirements (WAC 480-62-X3.4)					
On Track Equipment (WAC 480-62-X2.11)					
Remote Controlled Operations (WAC 480-62-X3.5)					
Crossing Signal Circuitry (WAC 480-62-X2.3)					

10. Given your estimates in the Table on the previous page, do you believe that these rule (individually or jointly) affect the profitability of your business? If so, in what way do you think the Commission could minimize/mitigate these impacts?

11. Over what time frame could these rules be implemented without unduly affecting your business? Please Explain.

Discussion Draft 480-62

Proposed Rules

Chapter 480-62 WAC RAILROAD COMPANIES--OPERATIONS

Last Update: 10/5/2000

Part 1: General and Procedural Rules

- 480-62-X1.1 Definitions.
- 480-62-X1.2 Application of this chapter.
- 480-62-X1.3 Savings clause.
- 480-62-X1.4 Exemptions from rules.
- 480-62-X1.5 Adoption by reference
- 480-62-X1.6 Commission proceedings.
- 480-62-X1.7 Grade crossing petitions.
- 480-62-X1.8 Procedure to set train speeds.
- 480-62-X1.9 Compliance policy.

Part 2: Safety Rules

- 480-62-X2.1 Roadway worker safety and operating rules and statutes.
- 480-62-X2.2 Track safety standards.
- 480-62-X2.3 Crossing signal circuitry.
- 480-62-X2.4 Hazardous materials regulations. (Previously 480-62-090)
- 480-62-X2.5 Blockage of public grade crossings.
- 480-62-X2.6 Crossing surfaces.
- 480-62-X2.7 Traffic control devices. (Previously 480-62-020)
- 480-62-X2.8 Flaggers. (Previously 480-62-030)
- 480-62-X2.9 Passenger carrying vehicles-Equipment (Previously 480-62-050)
- 480-62-X2.10 Passenger carrying vehicles-Operation. (Previously 480-62-060)
- 480-62-X2.11 On track equipment.

Part 3: Reporting Rules

- 480-62-X3.1 Annual reports. (previously 480-62-085)
- 480-62-X3.2 Railroad community notice requirements.
- 480-62-X3.3 Accident reports. (previously 480-62-080)
- 480-62-X3.4 Miscellaneous reporting requirements.
- 480-62-X3.5 Remote controlled operations.
- 480-62-X3.6 Railroad police officers - notice to state officials.

Part 1: General and Procedural Rules

New Section

WAC 480-62-X1.1 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "**Class I railroad company**" means a railroad company having annual operating revenues of \$250 million or more;

(2) "**Class II railroad company**" means a railroad company having annual operating revenue of less than \$250 million, but more than \$20 million; and

(3) "**Class III railroad company**" means a railroad company having annual operating revenues of \$20 million or less.

(4) "**Commission**" means the Washington utilities and transportation commission.

(5) "**Department of labor and industries**" means the Washington state department of labor and industries.

(6) "**Department of transportation**" means the Washington state department of transportation.

(7) "**Railroad company**" means any railroad company subject to commission jurisdiction.

~~(8) "**Multi-track grade crossings**" means grade crossings having multiple tracks where the distance between the inside rails of each track does not exceed 100 feet.~~

(9) "**On track equipment**" means self-propelled equipment, other than locomotives, that can be operated on railroad tracks.

(10) "**Passenger carrying vehicle**" means those buses and trucks owned, operated, and maintained by a railroad company which transports railroad employees in other than the cab of such vehicle and designed primarily for operation on roads which may or may not be equipped with retractable flanged wheels for operation on railroad tracks.

(11) "**Railroad**" means every permanent road with a line of rails fixed to ties providing a track for cars or equipment drawn by locomotives or operated by any type of power, including inter-urban and suburban electric railroads, for the public use of conveying persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, sidings, tracks, stations, and terminal facilities of every kind, used, operated, controlled, managed, or owned by or in connection therewith. Unless otherwise provided by rule, the term "railroad" does not include logging and industrial railroads, street railways operating within the limits of any incorporated city or town.

(12) "**Railroad police officer**" means a peace officer who is commissioned in a his or her state of legal residence or the state of employment by the a railroad company to enforce state laws for the protection of railroad property, personnel, passengers and/or cargo.

(13) "**State**" means the state of Washington.

New Section

WAC 480-62-X1.2 Application of this chapter. This chapter applies:

(1) To all Class I, II, and III railroad companies operating within the state of Washington, with the exceptions noted in subsections 2,3, and 4.

(2) To and within first class cities except for WAC 480-62-X1.6, 480-62-X1.7, 480-62-X1.8, and 480-62-X2.6.

(3) To and within cities with a population of more than 400,000 except for WAC 480-62-X1.6, 480-62-X1.7, 480-62-X1.8, 480-62-X2.6, 480-62-X2.7, and WAC 480-62-X2.8.

(4) To logging and industrial railroads except for WAC 480-62-X2.1, 480-62-X2.2, 480-62-X2.4, 480-62-X2.10, 480-62-X2.11, 480-62-X3.1, the portions of WAC 480-62-X3.3 that do not involved grade crossing accidents, 480-62-X3.4 (2), (4) and (5), and 480-62-X3.6.

New Section

WAC 480-62-X1.3 Savings clause. The Commission may impose additional or different requirements on any railroad company in response to a complaint or on its own motion. These rules do not relieve any railroad company from any of its duties and obligations under the laws of the state of Washington.

New Section

WAC 480-62-X1.4 Exemptions from rules. (1) The commission may grant an exemption of any rule in this chapter, when doing so, is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought and giving a full explanation of the reason the exemption is requested.

(3) The commission will assign the request a docket number, if needed, and schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under Chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date the commission will consider the request.

(4) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to Chapter 480-09 WAC.

New Section

WAC 480-62-X1.5 Adoption by reference. Where referred to in this chapter, the following definitions apply:

(1) "Title 49 Code of Federal Regulations," cited as 49 C.F.R., includes the regulations and all appendices and amendments in effect on January 31, 2000.

(2) "Title 49 United States Code" cited as 49 U.S.C., includes all appendices and amendments in effect on January 31, 2000.

(3) "Manual on Uniform Traffic Control Devices," cited as the Manual on Uniform Traffic Control Devices or the MUTCD, includes the regulations and all appendices and amendments in effect on January 31, 2000.

(4) " Washington state department of transportation rules" cited as chapter 468-95 WAC includes all of the rules contained in that chapter in effect on January 31, 2000.

(5) "Washington state department of labor and industry rules" cited as chapter 296-24 WAC includes all of the rules contained in that chapter in effect on January 31, 2000.

(6) "ANSI/ISEA 107-1999 - American National Standard for High-Visibility Safety Apparel," includes standards and specifications in effect on January 31, 2000.

(7) The documents are available for public inspection at the commission branch of the Washington state library, located within the commission's headquarters. The Code of Federal Regulations, the United State Code, and the MUTCD are available for purchase at the Seattle Office of the Government Printing Office. Washington state department of transportation rules are available from the department of transportation or on the internet web site for the Office of the Code Revisor (slc.leg.wa.gov) or from the Office of the Code Revisor. Copies of ANSI/ISEA 107-1999 are available for purchase by either writing the American National Standards Institute, 11 West 42nd Street NY, NY 10036 or on the internet web site for the American National Standards Institute (<http://web.ansi.org/>).

New Section

WAC 480-62-X1.6 Commission proceedings. The commission's rules governing administrative practices and procedures are in chapter 480-09 WAC. When a rule in this chapter conflicts with a rule in chapter 480-09 WAC, the rule in this chapter applies.

New Section

WAC 480-62-X1.7 Grade crossing petitions. (1) Whenever a railroad company, city, county, the department of transportation, the parks and recreation commission, or the commission seeks to take any of the following actions at a railroad-highway grade crossing, it must file a petition with the commission seeking approval pursuant to RCW 81.53.020 and RCW 81.53.060:

- (a) Opening a railroad-highway crossing at-grade, or by constructing an overcrossing or undercrossing;
- (b) Closing a railroad-highway crossing;
- (c) Constructing supplemental safety measures pursuant to RCW 81.48.015(1), including, but not limited to, median barriers;
- (d) Realigning a highway or railroad tracks;
- (e) Widening highways;
- (f) Constructing multiple tracks; or
- (g) Changing crossing surfaces including those that alter:

- the dimensions of an existing surface;
- the angle at which the tracks intersect a highway;
- the vertical alignment of a crossing (i.e. to accommodate track superelevation or changes in railroad grade); or
- the material used as the crossing surface.

(2) Whenever a railroad company, city, county, the department of transportation, the parks and recreation commission, or the commission seeks to take any of the following actions at a railroad-highway grade crossing, it must file a petition with the commission seeking approval pursuant to RCW 81.53.261:

- (a) Modifying or upgrading warning signals or devices;
- (b) Adding a crossing signal;
- (c) Adding gates to a crossing signal;
- (d) Modifying or upgrading circuitry for a warning signal; or
- (e) Installing an intertie between railroad crossing signals and highway traffic signals.

(3) This rule applies to all railroad companies, including logging and industrial railroads, however, it does not apply to crossings within the limits of first class cities, unless federal funding is used at the crossing.

New Section

WAC 480-62-X1.8 Procedure to set train speed limits. (1) **Scope of commission authority.** The commission's authority to regulate the speed of trains is established in RCW 81.48.030 but limited by federal law. Pursuant to RCW 81.48.030, the commission has the power to "fix and regulate" the speed of trains within the limits of any city and town, other than a first class city and at grade crossings outside the limits of cities and towns. However, under section 205 of the Federal Railroad Safety Act, 49 U.S.C. §20106, states are limited to actions which are "necessary to eliminate or reduce an essentially local safety hazard." Accordingly, the commission will act to limit train speeds below those set by the United States Secretary of Transportation only where it finds that there exists such a local safety hazard.

(2) **Procedure for setting train speed limits.** The commission will consider whether to set train speed limits below those authorized by the United States Secretary of Transportation either upon petition or upon its own motion.

(a) **Petition process.** (i) Any person who seeks to have the commission fix a train speed limit or modify an existing limit must file with the commission a petition. Such petition must contain the following information:

- (A) name and address of the petitioner;
- (B) specific location and length of track over which the speed limit is sought;
- (C) reasons for the speed limit;
- (D) if the petitioner seeks a speed limit different from the federally set speed limit, a detailed explanation of why there exists an "essentially local safety hazard" and why that speed limit is necessary to eliminate or reduce the hazard; and
- (E) any other information the petitioner deems relevant.

(ii) Upon receipt of the petition, the commission will serve the petition on the railroad company; the governing body of any local government within which the proposed speed limit is intended to apply; and the secretary of the department of transportation. The commission will ask for responses from those persons. The commission will set the matter for consideration at a regularly scheduled or special open meeting or, in its discretion, for a formal adjudicatory proceeding under chapter 34.05 RCW.

(b) **Commission-initiated process.** After investigation, the commission may also initiate a proceeding to set a train speed limit. Such a proceeding will be initiated by serving a notice on the railroad company or companies, the chief executive officer of any local government within which the proposed speed limit is intended to apply; and the secretary of the department of transportation. The notice will contain the information described in subparagraph (a)(i)(A)-(E), the time for filing responses to the notice and the date, time, and place at which the commission will consider the matter. Such consideration may be at a regular or special open meeting or, in the commission's discretion, in a formal adjudicatory proceeding under chapter 34.05 RCW.

(3) **Evidence of what constitutes an "essentially local safety hazard."** In determining whether a train speed limit, lower than authorized by federal law, is necessary to eliminate or reduce an essentially local safety hazard, the commission will include in its consideration the following:

(a) Whether the local situation is one that is covered by or is capable of being adequately covered by uniform national standards;

(b) Whether there exist unusual local geographic or other natural conditions which contribute to the existence of the hazard;

(c) The history of accidents or potential for accidents at the location; and

(d) Whether there exist alternate means to reduce or eliminate any hazard that can be included as conditions to an order setting a train speed.

New Section

WAC 480-62-X1.9 Compliance policy. (1) The commission encourages voluntary compliance with state statutes, rules, and commission orders through the following:

(a) A program emphasizing education and technical assistance; and

(b) A compliance program including inspections and investigation of railroad company operations:

(i) for compliance with state statutes, rules, and commission orders;

(ii) for compliance with Federal Railroad Administration (FRA) rules through the State Safety Participation Program, 49 C.F.R. Part 212.

(2) The commission may pursue administrative actions, including but not limited to, issuing defect notices to railroad companies, reports and recommendations to the FRA, warnings, sanctions, and penalty assessments.

Part 2: Safety Rules

New Section

WAC 480-62-X2.1 Roadway worker safety and operating rules and statutes. (1)

The Commission adopts by reference the following parts of Title 49 of the Code of Federal Regulations (C.F.R.) and Title 49 of the United States Code (U.S.C.) and all pertinent appendices:

- (a) 49 C.F.R. Part 209: Railroad safety enforcement procedures;
- (b) 49 C.F.R. Part 214: Railroad workplace safety;
- (c) 49 C.F.R. Part 217: Railroad operating rules;
- (d) 49 C.F.R. Part 218: Railroad operating practices;
- (e) 49 C.F.R. Part 219: Procedures for transportation workplace drug testing programs;
- (f) 49 C.F.R. Part 220: Radio standards and procedures;
- (g) 49 C.F.R. Part 221: Rear end marking device - passenger, commuter and freight trains;
- (h) 49 C.F.R. Part 225: Railroad Accidents/Incidents: Reports classification, and investigations;
- (i) 49 C.F.R. Part 228: Hours of service of railroad employees;
- (j) 49 C.F.R. Part 239: Passenger train emergency preparedness;
- (k) 49 C.F.R. Part 240: Qualification and Certification of Locomotive Engineers Hours of Service;
- (l) 49 U.S.C. Chapter 211: Hours of Service.

(2) All violations of the above incorporated rules and statutes will be submitted to the Federal Railroad Administration for enforcement action pursuant to the State Safety Participation Program, 49 C.F.R. Part 212.

New Section

WAC 480-62-X2.2 Track safety standards. (1) Rules governing Track Safety Standards are prescribed by the United States Department of Transportation in Title 49, Part 213, of the Code of Federal Regulations, along with appendices. The commission adopts these rules by reference.

(2) All violations of the above incorporated rules will be submitted to the Federal Railroad Administration for enforcement action pursuant to the State Safety Participation Program, 49 C.F.R. Part 212.

New Section

WAC 480-62-X2.3 Crossing Signal Circuitry. (1) Rules governing Grade Crossing Signal System Safety are prescribed by the United States Department of Transportation in Title 49 of the Code of Federal Regulations, Part 234 along with appendices. The Commission adopts these rules by reference.

(2) All violations of the above incorporated rules will be submitted to the Federal Railroad Administration for enforcement action pursuant to the State Safety Participation Program, 49 C.F.R. Part 212.

(3) Violations involving all other railroad companies will be enforced pursuant to WAC 480-62-X1.9 -Compliance policy.

Previously 480-62-090

WAC 480-62-X2.4 Hazardous materials regulations. (1) Rules governing hazardous materials are prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, parts 171 through 174, and parts 178 and 179, and the appendices to Title 49. The Commission adopts these rules by reference.

(2) All violations of the above incorporated rules and statutes will be submitted to the Federal Railroad Administration for enforcement action pursuant to the State Safety Participation Program, 49 C.F.R. Part 212.

New Section

WAC 480-62-X2.5 Blockage of Public Grade Crossings. (1) Railroad companies must not block a grade crossing for more than ten consecutive minutes, if reasonably possible.

(2) A blocked grade crossing must be cleared immediately by the fastest available method, if legally possible, upon the request of law enforcement or other emergency services personnel, or when the crossing is approached by a law enforcement or other emergency services vehicle with its emergency lights flashing.

(3) A grade crossing is "blocked" if any part of a stopped train occupies the crossing or causes warning devices to be activated.

New Section

WAC 480-62-X2.6 Crossing surfaces.

(1) Areas of Responsibility

(a) Highway authorities must maintain and keep in repair the roadway approaches up to one foot of from the outside of either rail at a grade crossing with one track. At crossings involving more than one track ~~multi-track crossings~~, the highway authority must maintain and keep in repair the roadway approaches up to one foot of from the outside of each of the two outside rails.

(b) At a grade crossing with one track, railroad companies must maintain and keep in repair the crossing surfaces between the rails and for a distance of one foot on the outside of either rail. At crossings involving more than one track ~~multi-track grade crossings~~, railroad companies must maintain and keep in repair the crossing surfaces and the roadway for the entire area between the outermost rails at the crossing, and for a distance of one foot outside of the two outermost rails.

(c) If different tracks at a crossing involving more than one track are owned by different railroad companies, each company must maintain and keep in repair the crossing surfaces and roadway within its right of way that is within the area specified in (b). If a portion of the roadway surface in that area is not within the right of way of any railroad, each railroad is responsible for the roadway up to the point that is half way between its right of way and the right of way of the company that owns the adjacent tracks.

(2) Crossing surfaces

(a) Crossing surfaces include shoulders and pedestrian walkways immediately adjacent to a roadway or shoulder. If reasonably possible, roadways and adjacent shoulders and pedestrian walkways must be continued through a crossing without narrowing the roadway, shoulder or walkway.

(b) The subgrade to a crossing surface must be maintained in a manner which minimizes damage to the crossing surface, taking into account the effects of topography, water tables, weather, and the types of vehicular traffic generally using the crossing.

(3) Roadways

(a) Roadways between tracks at multi-track grade crossings, including the roadway subgrade, must be of the same quality as the roadway approaches to the crossing unless the highway authority and the railroad company agree to a higher quality.

(b) Roadway approaches must be constructed and maintained so that the transition between the roadway and crossing surface is on the same plane and smooth.

(c) At grade crossings where track superelevation exists, roadway approaches must be constructed and maintained so that the transition between the roadway and crossing surface is as smooth as practicable.

(4) Standards for Surface Maintenance and Repair. Crossing surfaces must be convenient and safe for passage. Some factors in determining compliance with this general standard are:

- (a) Whether crossing surfaces and the adjacent roadways are level with the top of the rails on the plane created by each set of tracks.
- (b) Whether crossing surfaces are broken or loose.
- (c) The existence of potholes.
- (d) The existence of curled or rolled asphalt.
- (e) Whether traffic generally slows to traverse the crossing.
- (f) Citizen complaints.

(5) Notice Requirements. Whenever a highway authority plans to perform maintenance that will affect a crossing, it must notify the railroad company at least ten days before performing the maintenance. Whenever a railroad company plans to perform maintenance that will affect a crossing, it must notify the highway authority at least ten days before performing the maintenance.

Previously WAC 480-62-020

WAC 480-62-X2.7 Traffic control devices. (1) Whenever a railroad company performs any construction, maintenance or repairs at a grade crossing or grade separated

crossing, the company must install and maintain traffic control devices adequate to protect the public and railroad employees. Flaggers must also be provided where necessary to adequately protect the public and railroad employees.

2) The rules governing traffic control devices are prescribed in the Manual on Uniform Traffic Control Devices. The Commission adopts these rules by reference. They must be observed by all railroad companies operating in this state.

(3) Any traffic control device must be used only as long as the device is needed or applicable. Any device that is no longer needed or applicable must be immediately removed or inactivated so as to prevent confusion.

(4) All barricades, signs, and similar devices must be constructed and installed in a workmanlike manner.

(5) Bushes, weeds, or any other material or object must not be allowed to obscure any traffic control devices.

(6) All signs, barricades, and other control devices intended for use during hours of darkness must be adequately illuminated or reflectorized, with precautions taken to protect motorists from glare.

Previously WAC 480-62-030

WAC 480-62-X2.8 Flaggers

(1) The rules in this section apply whenever a railroad company engages in the maintenance, repair, or construction of a grade crossing or grade separated crossing; however, they do not apply when flaggers are provided only because of a crossing signal malfunction or only because of inspections or repairs to a crossing signal system. The latter circumstances are covered by 49 CFR, Part 234. In addition, 49 CFR Part 234.5 recommends that railroad companies follow the requirements of Part VI of the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) to the extent possible. The commission further recommends that railroads also abide by the following rules to the extent possible in situations covered by 49 CFR Part 234.

(2) Except as otherwise required in this section, traffic control devices, signs, barricades, and signaling methods must be set up and used by a qualified person (a qualified person is someone trained in and familiar with the provisions of Part VI of the MUTCD) and according to the guidelines in the American National Standards Institute D6.1, and the Manual on Uniform Traffic Control Devices, Part VI.

(3) Flaggers are to be used only when other reasonable means of control will not adequately control traffic in work zones. It may be reasonable in some cases to close the road on which the crossing is located, but only if agreed to by the public authority responsible for the roadway.

(4) Standards for high-visibility safety apparel

(a) While flagging during daylight hours, a flagger must, at a minimum, wear:

- A high-visibility safety garment designed according to ANSI/ISEA 107-1999, American National Standard for High-Visibility Safety Apparel, specifically, a garment containing at least 775 square inches of background material and 201 square inches of retroreflective material; and
- A high visibility hard hat.

(b) While flagging at night, a flagger must, at a minimum, wear:

- A high-visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 107-1999 over white coveralls, or other coveralls or trousers designed according to ANSI/ISEA 107-1999 Standards; and
- A high visibility hard hat that is iridescent or marked with at least 12 square inches of reflectorized material providing 360 degrees of visibility.

(c) While flagging during inclement weather, yellow rain gear, white rain gear, or rain gear designed according to ANSI/ISEA 107-1999 may be substituted for white coveralls.

(5) Railroad companies must develop and use a method to ensure that whenever there is any potential hazard associated with motor vehicles, construction equipment, or on-track equipment that flaggers have adequate warning of objects approaching from behind the flagger.

NOTE: The following are some non-mandatory examples of methods that may be used to adequately warn flaggers:

- Mount a mirror on the flagger's hard hat;
- Use a motion detector with audible warning; or
- Use a spotter.

(6)(a) Railroad companies must conduct an on-site safety briefing for flaggers each time a flagger reports for duty, and also when job site conditions change significantly. The briefing must include applicable portions of the Traffic Control Plan and any changes applicable during the flagger's shift. If not covered in the Traffic Control Plan, the briefing must also include:

- The flagger's role and location of the job site;
- Motor vehicles and equipment in operation at the site;
- Job site traffic patterns;
- Communications and signals to be used between flaggers and equipment operators;
- Expected train and other on-track equipment movements;
- On foot escape route; and
- Other hazards specific to the job site.

(b) When flaggers are used on a job site at a roadway allowing speeds of 45 mph or more and the job will last more than one day, the railroad company must keep on the site a current site-specific traffic control plan. The purpose of this plan is to help move traffic through or

around the construction zone in a way that protects the safety of the traveling public, pedestrians and workers. The plan must include, but is not limited to, such items as:

- Sign use and placement;
- Application and removal of pavement markings;
- Construction;
- Scheduling;
- Methods and devices for delineation and channelization;
- Placement and maintenance of devices;
- Placement of flaggers;
- Roadway lighting;
- Traffic regulations; and
- Surveillance and inspection.

(7)(a) Where flaggers are used on roads allowing speeds of at least 45 MPH, the railroad company must provide an additional warning sign marked "Be Prepared to Stop" or "Flagger Ahead."

(b) This sign is in addition to those required by Part VI of the Manual on Uniform Traffic Control Devices. It should be placed between the last two warning signs in the series or on the opposite side of the road when used on undivided roads.

(c) This additional sign does not increase the required advance warning area.

(d) The purpose of this additional sign is to clearly point out that a flagger will be encountered and the driver should be prepared to stop.

(8) To protect flaggers, railroad companies must ensure that:

(a) Flagger workstations are illuminated at night and during inclement weather by floodlights. It is important to adequately illuminate the workstation without creating glare in the eyes of approaching drivers. The adequacy and proper placement of floodlights can best be determined by driving through and observing the workstation from each direction on the roadway.

(b) Warning signs reflect the actual condition of the work zone. When not in use, warning signs should either be taken down or covered.

(c) Flaggers are not assigned other duties while engaging in flagging activities.

(d) Flaggers do not use devices (e.g. cell phones, pagers, radio headphones, etc.) that may distract the vision, hearing, or attention of the flagger. Devices such as two-way radios used for communication between flaggers to direct traffic or ensure flagger safety are acceptable.

(e) Flaggers receive appropriate breaks from flagging so they can remain attentive and alert.

(9) Unless an emergency makes it impossible, before performing any work, railroad companies must coordinate all repair, maintenance, and construction work with the political authority responsible for the road on which the crossing exists.

Previously WAC 480-62-050

WAC 480-62-X2.9 Passenger carrying vehicles–Equipment:

(1) Equipment requirements for all vehicles.

(a) Vehicles must comply with all applicable equipment requirements of Title 46 RCW.

(b) Vehicles must have exhaust systems that prevent exposure of passengers to the vehicle's emissions.

(c) Vehicles must have two external rear vision mirrors, one at each side of the cab. The mirrors must be firmly attached to the motor vehicle at a point where the driver is provided a view of the highway to the rear along both sides of the vehicle. An outside mirror may be placed only on the driver's side on vehicles in which the driver has a view to the rear by means of an interior mirror.

(d) Vehicles must be equipped with a steering system maintained to insure that lash or preplay do not exceed those values set forth in 49, CFR, Parts 570.7 and 570.60 (Vehicle in Use Inspection Standards).

(e) Vehicles must have a heating system that will maintain an ambient temperature of at least 55 degrees in passenger areas.

(f) Vehicles must have at least three red-burning fuses, three red portable emergency reflectors, or at least two red cloth flags suitable for warning the motoring public in an emergency. The driver must ensure that such equipment is in the vehicle and is maintained in good condition. Any devices that may create a spark or open flame must be carried in a separate compartment or a closed metal container provided for that purpose.

(g) Vehicles must have a two and one-half pound dry chemical fire extinguisher or its equivalent, properly filled and located where it is readily accessible for use. The extinguisher must allow visual determination of the state of its charge at all times. The extinguishing agent must be nontoxic and preferably non-corrosive. The fire extinguisher must be suitable for attachment to the motor vehicle, bear the label of approval by the Underwriters Laboratories, Inc., and be kept in good working condition at all times.

(h) Vehicles must have a first-aid kit located where it is readily accessible. The kit must contain all of the items specified in WAC 296-24-06145 and WAC 296-24-06160 Appendix 2 adopted by the Department of Labor of Industries. Additionally, the kit must contain gloves capable of preventing exposure to blood-borne pathogens. Items used from first-aid kits must be replaced before the next shift, and kits must be checked for compliance with this rule if the seal on the kit is broken.

(2) Equipment requirements for specified vehicles.

(a) Coupling devices used on a vehicle equipped with retractable flange wheels for operation on railroad tracks must be substantial and made of metal. The devices must be equipped with safety chains or straps of sufficient strength to prevent separation in the event of accidental uncoupling.

(b) A passenger compartment separate from the cab of the vehicle must be made of metal and be fastened directly to the frame of the vehicle. The compartment must have an interior lining sufficient to absorb condensation, and padded seats and backrests firmly secured in place. The floor of the compartment must be constructed to bear the weight of all cargo and passengers. The floor must not have unnecessary openings, and it must be constructed to prevent the entry of noxious fumes or permeation with flammable materials. The compartment must have a curtain of non-permeable material of sufficient weight and size to close off the rear opening and a tailgate which must be closed whenever the vehicle is in motion. If the bottom of the entrance to the passenger compartment is more than three feet six inches above ground level, the vehicle must have permanent or temporary steps designed for the safe boarding and discharge of passengers.

(c) Communication between a cab and a separated passenger compartment must be provided by means of a light or audible device mounted in the cab of the vehicle that may be activated by a passenger in the rear compartment.

(d) On vehicles designed to transport nine or more passengers, an emergency exit must be placed at the end of the vehicle opposite the regular entrance. The exit must be at least six

and one-half square feet in area, and the smallest dimension must be at least eighteen inches. The route to and from the emergency exit must be unobstructed at all times.

Previously WAC 480-62-060

WAC 480-62-X2.10 Passenger carrying vehicles--Operation.

(1) General. All passenger carrying motor vehicles must be operated in compliance with state law no matter where the vehicle is operated. Drivers must operate vehicles in a careful and prudent manner and at reasonable and proper speeds, with due regard to circumstances and to the use of highways by others.

(2) Minimum age, skill, and physical condition of drivers. Drivers of passenger carrying vehicles must be at least eighteen years old. Before being allowed to drive or operate a passenger carrying vehicle, drivers must have demonstrated the physical capability of handling the controls of the vehicle with ease. Before driving a vehicle, drivers or operators must obtain either a valid Washington state driver's license or a valid license from the state of the driver's residence. The driver must carry the license at all times while operating a vehicle. If the passenger carrying vehicle is a type for which the state of Washington requires an extraordinary license or endorsement, the driver must have such license or endorsement.

(3) Driver's daily hours of service. No driver of any passenger carrying motor vehicle may drive for more than ten hours without resting afterward for a minimum of eight consecutive hours.

(4) Refueling. No driver or any employee of a railroad company operating within the state may:

- (a) fuel a passenger carrying vehicle with the engine running;
- (b) smoke or expose any flame in the vicinity of a vehicle being fueled;
- (c) fuel a passenger carrying vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank;
- (d) insofar as practicable, permit any other person to engage in activities that might result in a fire or explosion. Except on buses, all occupants of the vehicle, except the driver and those within the operating cab, must dismount and stand clear while the vehicle is being refueled.

(5) Driving rules.

(a) Drivers must bring vehicles to a complete stop not less than fifteen feet from the nearest rail of at any grade crossing before crossing the track except:

- Where traffic is controlled by a police officer or a duly authorized flagger;
- Where traffic is regulated by a traffic control signal;
- Where traffic is controlled by crossing gate arms or an alternately flashing light signal intended to give warning of the approach of a train;
- Where an official traffic control device as designated by the Commission pursuant to RCW 81.53.060 (i.e. an "EXEMPT" sign, specified as R15-3 by the Manual on Uniform Traffic Control Devices) gives notice that the stopping requirement imposed by this section does not apply.

(b) Drivers must not change gears while crossing any railroad tracks.

(c) No driver may drink intoxicating liquors while on duty, or drive while affected by the use of intoxicating liquor or other substance which might impair the ability to drive.

(d) No driver may proceed down a grade with the gears in neutral or the clutch disengaged.

(e) At the beginning of his or her use of a vehicle, the driver must perform a brake test immediately before, and immediately after the vehicle begins moving to ensure that the brakes are functioning properly.

(6) Loading and carrying of passengers. Drivers are in charge of the vehicle and must require passengers to observe vehicle rules. Passengers may not enter or exit from the vehicle while it is in motion, or ride on running boards, fenders, bumpers, tops of cabs, or with any part of their body projecting beyond the sides or the ends of the vehicle. When equipment or tools are carried inside the vehicle they must be stored in enclosed racks or boxes that are secured to the vehicle in a manner that prevents employees from being struck in the event of sudden starts, stops, or turns. The driver must assure that tools and materials are properly secured before moving the vehicle.

(7) Limitation on transportation of explosives, gasoline, and other hazardous materials on passenger carrying vehicles. Explosives other than track torpedoes and fusees may not be carried in or on any vehicle while the vehicle is being used to transport crew members in a passenger compartment. If track torpedoes or fusees are carried in a passenger carrying vehicle, they must be carried in a separate compartment or container provided for that purpose. Gasoline, or other hazardous materials must not be carried in either the cab or in the passenger compartment; however, oxygen or acetylene cylinders may be carried if gauges and regulators have been removed with caps in place before loading. Passenger carrying vehicles may be used to carry flammable materials when they are located outside of and isolated from the passenger carrying area, and are stored in containers approved by the Underwriters Laboratories, Inc. Containers for fuel must be vented in a manner that prevents the hazardous concentration of fumes. All tools and equipment, including cylinders, containers, or drums, must be properly secured where they will not interfere with the use of any exit. A passenger carrying vehicle containing hazardous materials must not be parked within 300 feet of an open fire. Smoking is prohibited within 50 feet of a vehicle carrying explosive or flammable materials.

New Section

WAC 480-62-X2.11

On track equipment. (1) When approaching and passing over a railroad-highway grade crossing, operators of motor track cars, speeders, or other on-track equipment must remain in complete control of the equipment, be prepared to stop for vehicular or pedestrian traffic on the highway, stop if necessary to avoid an accident, and provide effective warning for vehicular or pedestrian traffic at the crossing .

(2) Railroad companies that allow persons other than railroad personnel on official railroad business to operate motor track cars, speeders, or other on-track equipment on their track must ensure that the operators comply with subsection (1).

Part 3: Reporting Requirement Rules

Previously WAC 480-62-08

WAC 480-62-X3.1 Annual reports. (1) The Surface Transportation Board annual report form R1 must be used by Class I railroad companies as the annual report form for submission to the commission. Class II and Class III railroad companies must use report forms periodically published by the commission.

(2) Each year every railroad company is responsible for obtaining the proper report form from the commission. Reports must be completed for the preceding calendar year's operations. One copy of the completed annual report must be submitted to the commission no later than May 1 of the succeeding year.

New Section

WAC 480-62-X3.2 Railroad community notice requirements. (1) At least 10 days prior to taking any planned action that may have a significant impact on a community, railroad companies must notify, in writing, the governing authority of the community and the commission of the planned action and must call the commission's designee, the Washington State Emergency Operations Center 24-hour duty officer (duty officer) at 1-800-258-5990, who will notify the commission and the affected county or city emergency management office and other appropriate agencies in accordance with the state 24-hour duty officer standard operating procedures and the State Comprehensive Emergency Management Plan.

(2) The following are examples of actions that may have significant impact on a community:

- (a) Any event that will impede vehicle traffic flow, including disrupting use of a crossing for track inspection, reconstruction, or maintenance;
- (b) Blocking a crossing for longer than 10 consecutive minutes.

(3) The notice must contain a heading with the words "Important Notice" in prominent type and contain, at a minimum, the following:

- (a) Date the notice is issued;
- (b) A clear explanation of the type of planned event;
- (c) Specific location of the event;
- (d) The start and completion date of the event;
- (e) Any additional information that will assist the community to plan for the event;
- (f) Railroad company contact person and phone number; and
- (g) A statement substantially as follows: "If you have questions about the regulatory process, you may contact the Washington Utilities and Transportation Commission at: WUTC, 1300 S. Evergreen Park Dr. SW, PO Box 47250, Olympia, WA 98504-7250; 1-800-562-6150 (toll-free). Also, you may contact the Federal Railroad Administration at 1-800-724-5998 (toll free)."

Previously WAC 480-62-600

WAC 480-62-X3.3 Accident reports. (1) A railroad company must make a telephone report to the commission's designee, the Washington State Emergency Operations Center 24-hour duty officer (duty officer) at 1-800-258-5990 of any event connected to the operation of the railroad company which results in the:

- (a) Release of any hazardous material (i.e. materials that are corrosive, flammable, explosive, reactive with other materials, or toxic);
- (b) Death of any person;
- (c) Injury to any person involved in a railroad-highway crossing accident, that requires medical treatment in addition to first aid; or
- (d) Damage to any property, amounting to fifty thousand dollars or more to property.

(2)(a) Reports of events listed in subsection (1) must be made by the railroad company within ten minutes of when it learned of the event. The report must provide detailed information of the event to the duty officer. After receiving the telephone report from the railroad company, the duty officer will identify the necessary critical response and remediation resources and agencies on an initial and continuous basis through the completion of the response to the event; and

(b) The duty officer will notify the commission, the affected county or city emergency management office and other appropriate agencies of the event report.

(c) Provisions (a) and (b) of this subsection shall must be carried out in accordance with the state's 24-hour duty officer standard procedures and the State Comprehensive Emergency Management Plan.

(3) Each event report made pursuant to subsection (1) by a railroad company must state, to the extent known, the:

- (a) Name of the railroad(s) involved;
- (b) Name and position of the reporting individual;
- (c) Time and date of the event;
- (d) Circumstances of the event;
- (e) Number and identity of persons suffering injuries;
- (f) Number of fatalities and the identities of the deceased;
- (g) The type and amount of hazardous material spilled; and
- (h) Other details that will assist in identifying the necessary response, as prompted by the duty officer.

(4) Accidents involving joint railroad company operations must be reported by the railroad company that controls the track and directs the movement of trains where the accident has occurred.

(5) Whenever a railroad company submits an event report to the Federal Railroad Administration, it must submit a copy to the commission at the same time.

(6) Whenever a railroad submits a report to the United States Department of Transportation concerning a hazardous materials incident or accident, it must submit a copy of the report to the commission at the same time.

New Section

WAC 480-62-X3.4 Miscellaneous reporting requirements. (1) Every railroad company must report to the commission sales, transfers or abandonments of all or any portion of any branch, or line, or trackage which crosses a public road, within ten days of the transaction. The report must contain a description of the transaction, clear identification of the track involved in the transaction, the effective date of the transaction, and the name and address of the new owners or operators of the section transferred.

(2) Upon request, every railroad company must report to the commission the number of daytime through trains, nighttime through trains, and switching movements over each grade crossing in its control. Reports must identify each crossing by USDOT number and road name.

(3) Upon request, every railroad company must inform the commission in writing of the names, addresses, and telephone numbers of the persons to whom to report emergencies of any nature, and problems or defects with crossing signals, passive warning devices, and crossing surfaces. The information must be current at all times.

(4) Upon request, every railroad company must provide the commission access to or copies of track profiles. The railroad company must update this information annually. This requirement may be satisfied by allowing electronic access to track profiles.

(5) Upon request, every railroad company must provide the commission with access to or copies of its timetable. If copies are made available, changes to the timetable must be provided to the commission within ten days after they are made. This requirement may be satisfied by allowing electronic access to the timetables.

New Section

WAC 480-62-X3.5 Remote controlled operations. (1) Railroad companies, including logging and industrial railroad companies, must report their intention to use remote control devices to operate trains thirty days before operations begin. The report must include:

- (a) The name of the railroad company;
- (b) The date operations will start;
- (c) The location of the operations; and,
- (d) Whether trains with locomotives operated by remote control will travel over at-grade pedestrian or vehicular crossings.

(2) If remote controlled trains will be operated over crossings, the railroad company must list the affected crossings.

(3) Each railroad company using remote control devices on the effective date of this rule must submit the report within thirty days after the effective date.

New Section

WAC 480-62-X3.6 Railroad Police Officers - Notice. (1) Every railroad company that has employees who are commissioned as railroad police officers pursuant to RCW 81.60 must send written notice to the commission within thirty days after the effective date of these rules.

(2) When any person is commissioned as a railroad police officer, an officer's commission is terminated, or a change occurs in the information previously reported pursuant to subsection (3), the affected railroad company must send written notice to the commission within ten days after the change occurs.

(3) The notices specified in subsections (1) and (2) must contain the following information:

- (a) The name of the railroad police officer;
- (b) The badge number, identification number, code or other identifying information assigned to the railroad police officer;
- (c) The date of commission;
- (d) The state or states where the railroad police officer is commissioned; and
- (e) The address and telephone number of the officer's primary business office.