



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017) (Implements RCW 34.05.310)

Do NOT use for expedited rule making

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FILED

DATE: July 20, 2020

TIME: 3:27 PM

WSR 20-15-127

Agency: Utilities and Transportation Commission

Subject of possible rule making: The purpose of this rulemaking is to implement HB 1841, Chapter 170, Laws of 2020, which pertains to the establishment of minimum crew size on certain trains. This rulemaking is recorded as Docket TR-200536 at the Utilities and Transportation Commission (UTC).

Statutes authorizing the agency to adopt rules on this subject: RCW 80.01.040; RCW 81.01.010, RCW 81.04.160, RCW 81.40. Laws of 2020, ch. 170, § 5(1) states that the UTC's "paramount obligation" is the furtherance of safety in railroad transportation. Laws of 2020, ch. 170, § 4(3) states that the UTC "may order railroad carriers to increase the number of railroad employees in areas of increased risk to the public, passengers, railroad employees, or the environment . . ."

Reasons why rules on this subject may be needed and what they might accomplish: In 2020, the Legislature enacted the Laws of 2020, chapter 170, which provided the UTC with revised regulatory authority over train crew size. The legislation also adds new sections to and repeals specific sections of Chapter 81.40 RCW, necessitating a rulemaking to define Class I railroads, develop a mechanism for reviewing automatic waivers, and establish a process for UTC-ordered crew size increases.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The Federal Railroad Administration (FRA) declined to issue rules concerning minimum train crew size [81 FR 13918], which it argues may have the effect of preempting state regulation of minimum train crew sizes by states. Washington and other states are challenging that action in court, but these petitions are still pending. The Commission's regulatory staff will coordinate enforcement of any rule resulting from this rulemaking with the FRA.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) The Commission will ask for initial written comments on the CR-101 by 9/4/2020, will seek additional written comments, and will conduct at least one stakeholder workshop.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

	(If necessary)
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Additional comments:

Date: July 20, 2020

Name: Mark L. Johnson

Title: Executive Director and Secretary

Signature: