



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: March 18, 2022

TIME: 11:40 AM

WSR 22-07-071

**Agency:** Utilities and Transportation Commission

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR 20-15-127 ; or**

**Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

**Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject) Rulemaking 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).

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
May 19, 2022	9:30 am	<a href="https://utc-wa-gov.zoom.us/j/96726813953?pwd=dGd1alo4M01PUWNtY1NRRaEhKaJJQdz09">https://utc-wa-gov.zoom.us/j/96726813953?pwd=dGd1alo4M01PUWNtY1NRRaEhKaJJQdz09</a>	Public hearing to consider adoption of the proposed rule..

**Date of intended adoption:** May 19, 2022 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: Amanda Maxwell, Executive Director and Secretary

Address: P.O. Box 47250, Olympia, WA 98504-7250

Email: records@utc.wa.gov

Fax:

Other: (360) 664-1160

By (date) May 5, 2022

**Assistance for persons with disabilities:**

Contact Human Resources

Phone: (360) 664-1160

Fax:

TTY: (360) 586-8203

Email: human\_resources@utc.wa.gov

Other:

By (date) May 12, 2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** 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 added new sections to and repeals specific sections of chapter 81.40 RCW, necessitating a rulemaking to define Class I railroads, provide automatic waivers, and establish a process for UTC-ordered crew size increases.

**Reasons supporting proposal:** In 2020, the Legislature enacted the Laws of 2020, chapter 170, which provided the UTC with revised regulatory authority over train crew size. This rulemaking enables the UTC to implement the new law, establishing rules for the UTC to apply specific definitions in the law, require minimum crew sizes on certain trains, grant automatic waivers to certain railroad carriers, order crew size increases when necessary, and assess fines for violations.

**Statutory authority for adoption:** RCW 80.01.040; RCW 81.01.010, RCW 81.04.160, chapter 81.40 RCW. RCW 81.40.150(1) states that the UTC's "paramount obligation" is the furtherance of safety in railroad transportation. RCW 81.40.025(4)(a) 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 . . ."

**Statute being implemented:** RCW 81.40.005-.025, .150

**Is rule necessary because of a:**

Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization) Utilities and Transportation Commission  Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Betty Young	621 Woodland Square Loop SE Lacey, Washington 98503	(360) 292-5470
Implementation:	Amanda Maxwell	621 Woodland Square Loop SE Lacey, Washington 98503	(360) 664-1110
Enforcement:	Amanda Maxwell	621 Woodland Square Loop SE, Lacey, Washington 98503	(360) 664-1110

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:  
Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

No: Please explain: RCW 34.05.328 does not apply to the Washington Utilities and Transportation Commission as it is not one of the listed agencies in RCW 34.05.328(5)(a)(i).

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency’s analysis showing how costs were calculated. The UTC is proposing to adopt rules that enable the UTC to implement the law, apply specific definitions in the law, require minimum crew sizes on certain trains, grant automatic waivers to certain railroad carriers, order crew size increases when necessary, and assess fines for violations. On May 6, 2021, the UTC mailed a notice to all stakeholders interested in the rulemaking, providing a copy of the draft rules and an opportunity to respond to an SBEIS questionnaire. The notice requested that entities affected by the proposed rules provide information about possible cost impacts of the rules with specific information for each rule that the entity identified as causing an impact. The UTC did not receive any information in response to the questionnaire. On Nov. 15, 2021, the UTC sent a supplemental SBEIS questionnaire to affected entities, providing an additional opportunity to respond. The UTC received no responses to the supplemental questionnaire. Based on the information available to it, the UTC determined that the proposed rules merely implement the statute as required by the Legislature.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

**Date:** March 18, 2022

**Name:** Amanda Maxwell

**Title:** Executive Director and Secretary

**Signature:**

