



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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July 21, 2020

NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(By 5 p.m. on Friday, September 4, 2020)

Re: Rulemaking to implement House Bill 1841, Chapter 170 of the Laws of 2020, pertaining to the establishment of minimum crew sizes on certain trains

TO ALL INTERESTED PERSONS:

On July 20, 2020, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) for a rulemaking to implement House Bill 1841 (HB 1841), Laws of 2020, Chapter 170, which pertains to the establishment of minimum crew sizes on certain trains. The Commission filed the CR-101 under Docket TR-200536. The CR-101, as filed with the Code Reviser, is available for inspection on the Commission's website at <https://www.utc.wa.gov/200536>. If you are unable to access the Commission's web page and would like an electronic copy of the CR-101 emailed to you, please contact the Records Center at (360) 664-1234.

Chapter 81.40 of the Revised Code of Washington (RCW) vests the Commission with regulatory authority over train crews. HB 1841 adds new sections to, and repeals specific sections in, Chapter 81.40 RCW, necessitating a rulemaking to define Class I railroads, develop a mechanism for reviewing automatic waivers, and establish a process for Commission-ordered crew size increases.

WRITTEN COMMENTS

The Commission seeks comment on rules the Commission should adopt to implement the statute. While the Commission welcomes all such comments, responses to the following questions would be most helpful:

1. HB 1841 defines “Class I” railroads more broadly than federal rules. The Washington statute provides:

“(1) Class I” means a railroad carrier designated as a class I railroad by the United States surface transportation board and its subsidiaries *or is owned and operated by entities whose combined total railroad operational ownership and controlling interest meets the United States surface transportation board designation as a class I railroad carrier.* (Emphasis added.)

The United States Surface Transportation Board (STB) assigns railroads to classes based on the *individual* railroad’s annual operating revenues according to the following revenue thresholds:¹

- Class I - \$447,621,226 or more.
 - Class II - Less than \$447,621,226, but in excess of \$35,809,698.
 - Class III - \$35,809,698 or less.
- a. What is your interpretation of “owned” as that term is used in this definition?
 - b. What is your interpretation of “operated” as that term is used in this definition?
 - c. What revenues should be used to determine whether a railroad is a Class 1 railroad under the Laws of 2020, chapter 170? Specifically, what revenues should be included when determining the “combined total railroad operational ownership and controlling interest” under Section 2(1) of HB 1841?
2. Section 3 of HB 1841 states that “*except as provided in section 4 of this act, any person, corporation, company...shall operate and manage all trains and switching assignments over its road with crews consisting of no less than two crewmembers.*” (Emphasis added.) Class III railroads operating at a speed of 25 miles per hour or less are exempt from this two-crewmember minimum requirement. What documentation or verification should the Commission require to show that a railroad’s operating speeds are 25 miles per hour or less?
 3. When deciding whether to order an increase in “train crew” or “employee” size under Section 4 of HB 1841, the Commission may consider factors such as the volatility of the commodities being transported, train volumes, risk mitigation measures, and operating factors that pose a risk to passengers, the general public, railroad employees, communities, or the environment. What are the specific risk criteria the Commission should consider when determining increased crew size?

¹ The revenue thresholds were last updated in 2017 and are periodically updated to reflect inflation.

COMMENT SUBMISSIONS

Written comments in response to this Notice must be filed with the Commission no later than **5 p.m., Friday, September 4, 2020**. Pursuant to WAC 480-07-250(3), written comments must be submitted in electronic form. As provided in WAC 480-07-140(5), those comments must be submitted via the Commission's web portal at www.utc.wa.gov/e-filing. If you are unable to submit documents via the portal, you may submit your comments by email to the Commission's Records Center at records@utc.wa.gov or by mailing or delivering an electronic copy to the Commission's Records Center on a flash drive, DVD, or compact disc that includes the filed document(s). Comment submissions should include:

- The docket number of this proceeding (TR-200536).
- The commenting party's name.
- The title and date of the comment(s).

The Commission will post all written comments on its website at the following URL address: <http://www.utc.wa.gov/200536>.

If you have questions regarding this rulemaking, you may reach the staff contact, Betty Young, by email at betty.young@utc.wa.gov.

NOTICE

If you do not want to comment now but want to receive future information about this rulemaking, please notify the Executive Director and Secretary in one of the ways described above and ask to be included on the mailing list for Docket TR-200536. If you do not do this, you might not receive further information about this rulemaking.

MARK L. JOHNSON
Executive Director and Secretary