

[Service Date May 21, 2004]

May 21, 2004

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS  
(Due by June 11, 2004)**

RE: Rulemaking to Consider Possible Rules in Chapter 480-62 WAC, Railroad Operating Rules Relating to Point Protection; Docket No. TR-040151

TO INTERESTED PERSONS:

On February 18, 2004, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to consider possible rules in Chapter 480-62 WAC, Railroad Companies - Operations rules relating to point protection. The CR-101, as filed with the Code Reviser, is available for inspection on the Commission's web site at [www.wutc.wa.gov/040151](http://www.wutc.wa.gov/040151). If you are unable to access the Commission's web page and would like a copy of the CR-101 mailed to you, please contact the Records Center at (360) 664-1234.

The Commission solicited written comments on a set of draft rules in a notice dated February 19, 2004. Based upon the comments received, Commission Staff revised the draft rules for the purpose of presenting them to the Commission at its open meeting held on May 12, 2004, to determine whether to issue a Notice of Proposed Rulemaking (CR-102). A copy of the draft rules presented at the hearing on May 12, 2004, are available on the Commission's web page at [www.wutc.wa.gov/040151](http://www.wutc.wa.gov/040151). The purpose of presenting the issue at the open meeting was to provide interested parties the opportunity to make oral presentations to the Commissioners before a decision was made on whether to issue a Notice of Proposed Rulemaking. Based upon the comments made during the open meeting, including a table prepared by Burlington Northern and Santa Fe Railway Company (BNSF) and the Union Pacific Railroad Company (UP), the Commission seeks additional information before proceeding to the CR-102, or proposed rule, phase of the rulemaking process. A copy of the railroads' table is available on the Commission's web page at [www.wutc.wa.gov/040151](http://www.wutc.wa.gov/040151). The Commission requests clarification on the specific questions set forth below, and welcomes any other comments interested parties may wish to submit.

**WRITTEN COMMENTS**

The Commission requests comments from interested persons that will assist the Commission in designing a proposed rule that:

1. Is understood by the railroads;
2. Does not interfere with existing operations;
3. Allows for the use of new technologies when they are shown to provide the same level of safety as previous techniques;
4. Takes into account concerns expressed by any commenter in this proceeding; and
5. Promotes safety by providing a rule to be enforced by the Commission through the imposition of penalties that requires railroads to detect and respond to persons or property in front of a movement unless it is clear that other means of protection substitute for that detection.

Written comments addressing the following questions, and any other comments on the draft rules, must be filed with the Commission no later than **Friday, June 11, 2004**:

1. What definitions of “drop,” “kick,” and “shove” would cover all operations commonly included in how the railroad industry uses those terms?
2. Please identify whether your railroad adopts GCOR 6.5, and if not, please identify if your railroad has a comparable rule, and provide the language of that comparable rule.
3. Please give examples of operations that would be allowed by GCOR 6.5, or your railroad’s comparable rule and any associated internal rules, but that would not be allowed by the draft rule presented at the May 12, 2004, open meeting.
4. How does the Union Pacific Railroad Company’s version of GCOR 6.5 allow the use of new or existing technology when “a **crew member** must provide protection for the movement?”
5. Which variation of GCOR 6.5 in the table provided at the open meeting on May 12, 2004, is preferable, and why?
6. Please give examples of how GCOR 6.32.1 would allow operations that would not be allowed by the draft rule presented at the May 12, 2004, open meeting?

7. The Commission understands that the Federal Railroad Administration (FRA) recommends that cameras be used only after a diagnostic team consisting of the railroad, the responsible road authority and the responsible state safety oversight agency (in this state, the Commission) agrees that it is safe to do so at a particular location and prescribes any conditions necessary to make it safe. If this understanding is not correct, please explain your railroad's understanding and provide documentation of FRA's actual position.
8. Does the proposed exception to point protection requirements for remote-control zones limit the use of remote-control locomotives more than railroads have planned for remote-control zones? If so, please provide detailed descriptions of the operations the rule would limit, and how the rule would limit those operations.

The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted by electronic mail to the Commission's Records Center at <[records@wutc.wa.gov](mailto:records@wutc.wa.gov)>. Please include:

- The docket number of this proceeding (TR-040151)
- The commenting party's name
- The title and date of the comment or comments

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3 ½ inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The Commission will post on the Commission's web site all comments that are provided in electronic format. The web site is located at <<http://www.wutc.wa.gov/040151>>.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will always accept a paper document. Questions may be addressed to Mike Rowswell at (360) 664-1265 or e-mail at <[mrowswel@wutc.wa.gov](mailto:mrowswel@wutc.wa.gov)>.

Your participation is welcomed via written comments. Opportunity for further comment is anticipated. Information about the schedule and other aspects of the rulemaking, including comments, will be posted on the Commission's web site as it becomes available. If you wish to receive further information on this rulemaking you may (1) call the Commission's Records Center at (360) 664-1234, (2) e-mail the

Commission at <[records@wutc.wa.gov](mailto:records@wutc.wa.gov)>, or (3) mail written comments to the address below. When contacting the Commission, please refer to Docket No. TR-040151 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Executive Secretary  
Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, Washington 98504-7250

Sincerely,

CAROLE J. WASHBURN  
Executive Secretary