

[Service Date January 31, 2003]

January 31, 2003

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS**  
**(February 27, 2003)**

**NOTICE OF STAKEHOLDER WORKSHOP**  
**(Wednesday, March 19, 2003)**

RE: Consider Establishing Rules Related to Public and Employee Safety, and Protection of Property from Damage Associated with Remote Control Locomotive (RCL) Operations. Chapter 480-62 WAC.  
Docket No. TR-021465

TO INTERESTED PERSONS:

The Washington Utilities and Transportation Commission has authorized the filing of a Preproposal Statement of Inquiry (CR-101) with the Code Reviser in Docket No. TR-021465. The Federal Railroad Administration (FRA) has promulgated voluntary Remote Control Locomotive (RCL) safety guidelines in Safety Advisory 2001-01. The focus of this rulemaking will be to consider whether the Commission is preempted to any degree by federal law from adopting rules on the subject of remote control locomotives and whether any state rules, whether or not based on the voluntary federal guidelines, should be considered for adoption. The CR-101, as filed with the Code Reviser, and FRA Safety Advisory 2001-01 are available for inspection on the Commission's web site at <<http://www.wutc.wa.gov/021465>>. If you are unable to access the web site and would like a copy of the CR-101 mailed to you, please contact the Commission's Records Center at (360) 664-1234.

Pursuant to WAC 480-62-320, railroad companies must report their intention to use remote control devices to operate trains in Washington State before operations begin. Several railroad companies have provided notice of commencing RCL operations, and at least one accident involving a remote controlled locomotive has occurred in Washington. On November 1, 2002, the Washington State Legislative Board of the Brotherhood of

Locomotive Engineers (BLE) filed a petition requesting that the Commission adopt rules making mandatory the safety guidelines in FRA Safety Advisory 2001-01. FRA Safety Advisory 2001-01 contains voluntary guidelines in the following subject areas: safety design and operational requirements; training; operating practices; security; inspections and tests; notification of remote control locomotives; and accident-incident reporting procedures. The Commission rejected the BLE petition, but also noted that the issues raised by the BLE petition are of potential concern. The Commission directed that this rulemaking be commenced in order to thoroughly review and analyze the issues underlying Safety Advisory 2001-01, including input from interested persons, before proposing any rules for adoption.

The Commission requests written comments from interested persons regarding in general the issues of federal preemption and whether any Washington State rules are necessary to protect railroad employees and the public. Additionally, the Commission is interested in knowing to what extent the Safety Advisory 2001-01 guidelines have been implemented by railroad companies engaged in RCL operations in Washington. Specifically, the Commission requests written comments to the following:

1. Is the Commission preempted to any degree by federal law from adopting rules establishing safety requirements relating to RCL operations? If you contend that federal law preempts the Commission to any degree, please state the degree of preemption and refer to specific legal authority that supports your contention.
2. If you represent a railroad company engaged in RCL operations in Washington, please identify with specificity which, if any, of the Safety Advisory 2001-01 guidelines your railroad has implemented. Further, please explain with specificity why other guidelines have not been implemented.
3. What are the specific dangers, if any, that exist with RCL operations but do not exist when locomotives are occupied by an engineer?
4. What specific state safety rules may be necessary, and why? Are they included in, or in addition to, the provisions of Safety Advisory 2001-01?
5. What alternatives to mandatory requirements for RCL operations are available to assure the safety of railroad employees and the general public?

## **WRITTEN COMMENTS**

Written comments must be filed with the Commission no later than **Thursday, February**

**27, 2003** for consideration at the March 19, 2003, workshop. The Commission requests that comments be provided in electronic format to reduce the need for paper copies, to enhance public access, and to facilitate reference to 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-021465)
- The commenting party's name
- The subject and date of the 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 Adobe Acrobat format (.pdf) or in Word 97 or later (.doc). Include all of the information requested above. All comments that are provided in electronic format will be posted and made publicly available on the Commission's web site at <<http://www.wutc.wa.gov/021465>>. If you are unable to file your comments electronically or to submit them on a disk, the Commission will always accept paper documents.

Questions may be directed to Mike Rowswell at <[mrowswel@wutc.wa.gov](mailto:mrowswel@wutc.wa.gov)> or (360) 664-1265.

## **STAKEHOLDER WORKSHOP**

We encourage your attendance and participation in a stakeholder workshop to be held on **Wednesday, March 19, 2003**, in Room 206 at the Commission's headquarters, beginning at 9:30 a.m. and continuing through 4:30 p.m. Workshops are informal meetings that provide the Commission and interested persons an opportunity to identify any issues related to the subject of the rulemaking, to discuss options for addressing those issues, and to gather information before beginning to draft rules. Free parking is available. The Commission's street address is:

Washington Utilities & Transportation Commission  
1300 South Evergreen Park Drive SW  
Olympia, Washington 98504-7250

If you cannot attend the workshop, you can arrange to participate in the workshop via teleconference. Eleven call-in ports are available on a first-come, first-served basis. You may

reserve a port by calling Kippi Walker at (360) 664-1139.

## GENERAL INFORMATION

Your participation is welcomed via written comments and stakeholder workshops. 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) contact Mike Rowswell at <[mrowswel@wutc.wa.gov](mailto:mrowswel@wutc.wa.gov)> or (360) 664-1265; (2) contact the Commission's Records Center at <[records@wutc.wa.gov](mailto:records@wutc.wa.gov)> or (360) 664-1234; or (3) notify the Commission in writing at the address below. When contacting the Commission, please refer to "Docket No. TR-021465" to assure that you are placed on the appropriate service list. The Commission's mailing address is:

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

## NOTICE

**If you do not want to comment now, but do want to receive future information about this rulemaking, please notify the Secretary in one of the ways described above and ask to be included on the mailing list for Docket No. TR-021465. If you do not do this, you might not receive further information about this rulemaking.**

Sincerely,

CAROLE J. WASHBURN  
Secretary