

Stakeholder Workshop
Discussion Paper 1
Chapter 480-62 WAC
TR-981102
Railroad Companies Operations
05/27/99

Dear Stakeholder:

This discussion paper will be used to facilitate discussion at the May 27, 1999, stakeholder meeting.

The discussion paper is organized into three parts: issues presented by existing rules, new issues, and issues raised by stakeholders. The first part contains Staff's perspective on possible changes to the existing rules and questions Staff poses to the stakeholders. Staff changes under consideration include reorganizing the chapter and rewriting or revising rules in a plain English format for clarity. Staff also poses a number of questions to determine the need for changes in the rules to ensure the rules address a wide range of stakeholder needs. **Each existing rule is included as it currently appears in Chapter 480-62 WAC.**

The second part contains other issues Staff would like to discuss to determine if new or additional rules should be developed. Each issue includes a brief discussion of why Staff is raising the issue for discussion among stakeholders.

The last part contains other issues raised by stakeholders during the earlier written comment phase. The Staff presents its views on the issues and seeks further comments from stakeholders.

Staff encourages stakeholders to attend the May 27, 1999 workshop and participate in informal discussions about these issues. Stakeholders will have additional opportunities to comment on these issues.

PART 1 - Existing Rules

1. Locomotive speedometers

The Federal Railroad Administration (FRA) has locomotive speedometer rules that require speedometers to be accurate at a certain level. The Commission's existing rule requires railroads to report speedometer accuracies that are different from the FRA rule.

Question to stakeholders: Is there a need for the existing rule or a revised rule regarding locomotive speedometers?

WAC 480-62-010 Locomotive speedometers. (1) Filing required. On or before July 1, 1978, every railroad designated Class I by the Interstate Commerce Commission operating locomotive equipment within the state of Washington, shall file with the Commission a list identifying all points within the state at which facilities are available for the calibration, repair or replacement of locomotive speedometers, or locomotive equipment may be available for substitution. Any changes therein shall be promptly reported to the Commission to the end that the list be kept at all times current.

(2) Records. Reports of speedometers which are out of calibration to the extent of five miles per hour or more shall be made in writing, and shall be submitted at the first point within the state at which repair facilities are available or locomotive equipment with a properly calibrated speedometer may be substituted. Any such report and a record of any action taken by the railroad company in response thereto shall be maintained at the office of the division in which the report was originally filed. In addition to the foregoing, at each location in the state of Washington at which work is performed upon a locomotive speedometer, complete records shall be maintained showing the locomotive number, serial number, if any, of the speedometer, calibration data, and detail of any defect found and repair work performed. The records required to be kept shall be maintained for a period of not less than one year.

2. Highway Traffic Control Devices During Construction

RCW 81.53.420 requires the Commission to adopt rules regarding traffic control devices. Staff believes this rule should be rewritten in a clear English format and the current Manual on Uniform Traffic Control Devices (MUTCD) should be adopted by reference. "Adoption by reference" rules must refer to a specific date.

Question to stakeholders: Should the Commission consider any other information when redrafting this rule?

WAC 480-62-020 Traffic control devices. Whenever any railroad company engages in the construction, maintenance, or repair of a crossing or overpass, traffic control devices installed and maintained in accordance with the requirements of chapter 168, Laws of 1977 ex. sess., shall be in conformity with Part I, Part II-A, and Part VI of the currently effective Manual on

Uniform Traffic Control Devices, as adopted by the Federal Highway Administrator as a national standard for application on all classes of highways, all of which are hereby adopted by reference as if set out in full, together with all subsequent additions, deletions, or amendments thereto.

3. Flagpersons

By statute, (RCW 81.53.420 and 81.53.410) the Commission is required to adopt rules regarding flagpersons. Staff believes the existing rule asks for flagperson qualifications that are not measurable and while the language is in statute, Staff believes the Commission rule should be limited to the safety aspects of the flagperson's work.

Question to stakeholders: Do railroad companies have any processes or measurement tools that are used to quantify the qualifications required of a flagperson? What elements should be included in a rule addressing the qualifications of flagpersons and the procedure for flagging? Would adopting by reference, the MUTCD and Washington State Department of Labor and Industries rules for flagpersons (WAC 296-155-305) be adequate? Is there a certification requirement for flagpersons that should be included in the rule?

WAC 480-62-030 Flagpersons. (1) Qualifications and equipment. Since flagpersons are responsible for human safety and make the greatest number of public contacts of all construction personnel, it is important that qualified personnel be selected. Flagpersons shall, as a minimum, be of average intelligence; in good physical condition, including sight and hearing; be mentally alert; have a courteous but firm manner; be of neat appearance; and have sense of responsibility for safety of public and crew.

The use of an orange vest, and/or an orange cap shall be required for flagpersons. For nighttime conditions similar outside garments shall be reflectorized.

Flagpersons are provided at work sites to stop traffic intermittently as necessitated by work progress or to maintain continuous traffic past a work site at reduced speeds to help protect the work crew. For both of these functions the flagperson shall, at all times, be clearly visible to approaching traffic for a distance sufficient to permit proper response by the motorist to the flagging instructions, and to permit traffic to reduce speed before entering the work site. In positioning flagpersons, consideration shall be given to maintaining color contrast between the flagperson's protective garments and his or her background.

(2) Hand signaling devices.

(a) General. Red flags or STOP/SLOW paddles or lights may be used in controlling traffic through work areas.

(b) Flags. Flags may be used only during daylight hours and shall be a minimum of 24 by 24 inches in size, made of a good grade of red material securely fastened to a Staff approximately 3 feet in length. The free edge should be weighted to insure that the flag will hang vertically, even in heavy winds.

(c) Sign paddles. Sign paddles shall be at least 24 inches wide, with 6 inch series C letters. A rigid handle shall be provided. This combination sign may be fabricated from sheet metal or other light semirigid material. The background of the STOP face shall be red with white letters and

border. The background of the SLOW shall be orange with black letters and border. When used at night the STOP face shall be reflectorized red with white reflectorized letters and border, and the SLOW face shall be reflectorized orange with black letters and border.

(3) Flagging procedures.

(a) To stop traffic the flagperson shall face traffic and extend the flag horizontally across the traffic lane in a stationary position so that the full area of the flag is visible hanging below the Staff. For greater emphasis, the free arm may be raised with the palm toward approaching traffic.

(b) When it is safe for traffic to proceed the flagperson shall stand parallel to the traffic movement, and with flag and arm lowered from view of the driver, motion traffic ahead with his or her free arm. Flags shall not be used to signal traffic to proceed.

(c) To alert or slow traffic by means of flagging, the flagperson shall face traffic and wave the flag in a sweeping motion of the arm across the front of the body without raising the arm above a horizontal position.

If a sign paddle is used, it shall be held in a stationary position with the arm extended horizontally away from the body.

Whenever practicable, the flagperson should advise the motorist of the reason for the delay and the approximate period that traffic will be halted. Flagpersons and operators of construction machinery or trucks should be made to understand that every reasonable effort must be made to allow the driving public the right-of-way and prevent excessive delays.

4. Exemption

Statute (RCW 81.53.420) requires the Commission to recognize that cities with a population at or above 400,000 may not need to comply with rules regarding flagpersons. Staff proposes a plain English re-write for this section retaining the current exemption for cities with populations over 400,000.

Question to stakeholders: Is there any opposition to Staff's proposal?

WAC 480-62-040 Exemption. WAC 480-62-020 and 480-62-030 shall not apply to construction, maintenance, or repair of crossings or overpasses situated within cities having a population in excess of 400,000.

5. Passenger Carrying Vehicles

RCW 81.61.020 requires the Commission to write rules regarding passenger carrying vehicles. Staff believes the current passenger carrying vehicle rules could be merged into one rule. Further, Staff is considering adopting by reference the “North American Uniform Out-of-Service Criteria,” which is published by the Commercial Vehicle Safety Alliance, and applicable sections of Title 49 Code of Federal Regulations. An adoption by reference would shorten the rule and allow the Commission and railroad companies to keep current regarding national safety standards. In addition, Staff is considering adopting the Washington Department of Labor and Industries’s first aid kit requirements set out in WAC 296-24-065. Note: L&I’s first aid kit requirements do not include safety gear to handle blood born pathogens.

Even with “adoption by reference” language, certain aspects of the existing rule and statute requirements would not be included. Staff believes subsections to the rule would need to be added to include the topics of anti-spray devices (mud flaps), communication between the cab and a separated passenger compartment, and heating system requirements.

Question to stakeholders: Would Staff’s proposal meet the needs of stakeholders? Are there any other issues that should be considered?

WAC 480-62-050 Passenger carrying vehicles--General. In addition to complying with any applicable equipment requirements of Title 46 RCW, including but not limited to those relating to motor vehicle lights and reflectors, horns, braking systems, exhaust systems, tires, warning and signaling devices, and windshield wipers, all of which are hereby adopted as minimum standards, every passenger carrying motor vehicle owned, operated and maintained by any railroad company in this state used for the purpose of transporting railroad employees other than in the cab thereof, shall, as a minimum, be in conformity with the equipment specified in WAC 480-62-060 and operated in a manner consistent with WAC 480-62-070.

WAC 480-62-060 Passenger carrying vehicles--Equipment. (1) Passenger compartment. Any passenger compartment separate from the cab of the vehicle shall be of metal construction fastened directly to the frame of the vehicle and not to the surface of the bed thereof. It shall be equipped with an interior lining sufficient to absorb condensation, and padded seats and backrests firmly secured in place. The floor shall be of substantial construction, free from unnecessary openings and shall be maintained so as to prevent the entry of noxious fumes or permeation with flammables of any variety. Such passenger compartments shall also be equipped with a curtain of nonpermeable material of sufficient weight and size to close off the rear opening and with a tailgate which must be closed at all times that the vehicle is in motion. Truck equipment having a bed in excess of three feet six inches above ground level shall be equipped with permanent or temporary steps designed for safe boarding and discharge of passengers.

(2) Communication devices. Communication between a cab and a separated passenger compartment shall be provided by means of a light or audible device mounted in the cab of the vehicle which may be activated by an employee in the rear compartment.

(3) Coupling devices. Coupling devices used on any passenger carrying vehicle equipped with retractable flange wheels for operation on railroad tracks shall be of substantial metal construction and shall be equipped with safety chains or straps of sufficient strength to prevent separation in the event of accidental uncoupling.

(4) Exhaust systems. Exhaust systems shall be designed and maintained so as to eliminate exposure of passengers to toxic agents.

(5) Rear vision mirrors. Passenger carrying vehicles shall be equipped with two external rear vision mirrors, one at each side of the cab, firmly attached to the motor vehicle and so located as to accord the driver a view of the highway to the rear along both sides of said vehicle: *Provided*, That only one outside mirror shall be required, which shall be on the driver's side, on vehicles which are so constructed that the driver has a view to the rear by means of an interior mirror.

(6) Steering mechanisms. All passenger carrying vehicles will be equipped with a steering system which is maintained to insure that lash or preplay do not exceed those values set forth in Title 49, CFR 570.7 and 570.60 (Vehicle in Use Inspection Standards).

(7) Heating systems. Passenger carrying vehicles shall be equipped with a heating system sufficient to maintain an ambient temperature of no less than 55 degrees in passenger areas.

(8) Road warning devices. All passenger carrying vehicles will be equipped with at least three red-burning fuseses, or three red portable emergency reflectors, or at least two red cloth flags suitable for warning the motoring public in the event of an emergency. It shall be the responsibility of the driver to assure that such equipment is in the vehicle and is maintained in good condition. Any devices which may create a spark or open flame shall be carried in a separate compartment or a closed metal container provided for that purpose.

(9) Emergency exits. On vehicles designed to transport nine or more passengers, an emergency exit of not less than six and one-half square feet in area, with the smaller dimension being not less than eighteen inches, shall be placed at the end of the vehicle opposite the regular entrance. The route to and from the emergency exit shall be at all times unobstructed.

(10) Fire extinguishers. Every passenger carrying vehicle must be equipped with a two and one-half pound dry chemical fire extinguisher or its equivalent, properly filled and located so as to be readily accessible for use. Such extinguisher must be designed, constructed, and maintained so as to permit visual determination of the state of its charge. The extinguishing agent shall be nontoxic and preferably noncorrosive, and the fire extinguisher shall be suitable for attachment to the motor vehicles, shall bear the label of approval by the Underwriters Laboratories, Inc., and shall be kept in good working condition at all times.

(11) First-aid kits. All passenger carrying vehicles shall be equipped with a first-aid kit which will be readily accessible and shall contain as a minimum the following items: (1) One package of aromatic spirits of ammonia ampules (or bottles); (2) two triangular bandages forty inch size or two square bandages thirty-six inch size; (3) one pack or equivalent of one-half inch by five yards adhesive tape; (4) one package of four 3 x 3 inch compress bandages (sterilized and individually wrapped in waterproof packages); (5) two rolls two inch by five yards or one roll, two inch by ten yards roller bandages (sterilized); (6) one package (minimum sixteen) three-quarter inch or one-quarter inch waterproof adhesive compresses; (7) one first-aid book or adequate printed first-aid instruction; (8) one package burn ointment or other burn compound; (9) some form of antiseptic, the type of which will be left to the judgment of the railroad company. Items used from first-aid kits shall be replaced before the next shift, and kits shall be checked for

compliance with the above specifications if the seal on the kit is broken.

WAC 480-62-070 Passenger carrying vehicles--Operation. (1) General. All passenger carrying motor vehicles shall at all times be operated in accordance with the requirements of state law, and no driver or operator thereof shall operate the same in any other than a careful and prudent manner nor at any greater speed than is reasonable and proper, having due regard to circumstances and to the use of highways by others, so as not to endanger the life and limb of any person.

(2) Minimum age, skill, and physical condition of drivers. Drivers or operators of passenger carrying vehicles shall be not less than eighteen years of age and shall have demonstrated the physical capability of handling the controls of the vehicle with ease. Such drivers must obtain and maintain in effect and carry on their persons at all times while operating a passenger carrying vehicle either a valid Washington state driver's license or a valid license from the state of the driver's residence. If the passenger carrying vehicle is a type for which the state of Washington requires an extraordinary license or endorsement, the driver shall be required to have such license or endorsement.

(3) Driver's daily hours of service. No driver or operator of any passenger carrying motor vehicle shall be permitted to or required to drive for more than a maximum of ten driving hours without a following minimum of eight consecutive hours rest.

(4) Refueling. No driver or any employee of a railroad company operating within the state shall (a) fuel a passenger carrying vehicle with the engine running; (b) smoke or expose any flame in the vicinity of a vehicle being fueled; (c) fuel a passenger carrying vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank; (d) insofar as practicable, permit any other person to engage in activities that might result in a fire or explosion. Except on buses, all occupants of the vehicle, except the driver and those within the operating cab, must dismount and stand clear while the vehicle is being refueled.

(5) Driving rules.

(a) Drivers of passenger carrying motor vehicles shall bring such vehicles to a full stop not less than fifteen feet of any grade crossing of any railroad before crossing the track. Gears should not be changed while approaching or crossing the tracks. No stop need be made at any such crossing where a police officer or traffic control signal is directing traffic to proceed.

(b) No driver or operator of any passenger carrying motor vehicle shall drink intoxicating liquors while on duty, or drive while affected by the use of intoxicating liquor or other substance which might impair the ability to drive.

(c) No driver or operator of a passenger carrying vehicle shall proceed downgrade with the gears in neutral or the clutch disengaged.

(d) At the beginning of his or her use of passenger carrying vehicles, the driver or operator thereof shall make a brake test immediately before, and immediately after the vehicle commences moving to ascertain that the brakes are functioning properly.

(6) Loading and carrying of passengers. Drivers or operators of passenger carrying vehicles are in charge of the vehicle and shall require passengers to observe vehicle rules. Passengers will not be permitted to enter or exit from the vehicle while it is in motion, or to ride on running boards, fenders, bumpers, tops of cabs, or with any part of their body projecting beyond the sides or the ends of the vehicle. When equipment or tools are carried inside the vehicle they shall be stored in enclosed racks or boxes which shall be properly secured to the vehicle in order to

prevent their striking employees in the event of sudden starts, stops, or turns. It shall be the responsibility of the driver to assure that tools and materials are properly secured before moving the vehicle.

(7) Limitation on transportation of explosives, gasoline, and other hazardous materials on passenger carrying vehicles. Explosives other than track torpedoes and fusees shall not be carried in or on any passenger carrying vehicle while the vehicle is being used to transport crew members in a passenger compartment. If track torpedoes or fusees are carried in a passenger carrying vehicle, they shall be carried in a separate compartment or container provided for that purpose. Gasoline or other flammable materials shall not be carried in either the cab or in the passenger compartment except that oxygen or acetylene cylinders may be so carried if gauges and regulators have been removed with caps in place before loading. Passenger carrying vehicles may be used to carry flammables when such flammables are located outside of and isolated from the passenger carrying area, and are stored in containers approved by the Underwriters Laboratories, Inc. Containers for fuels shall be vented in such manner as to prevent the hazardous concentration of fumes. All tools and equipment, including cylinders, containers, or drums shall be properly secured while being transported, and shall be located so as not to interfere with the use of any exit. A passenger carrying vehicle containing hazardous materials shall not be parked within 300 feet of an open fire. Smoking shall be prohibited within 50 feet of the vehicle carrying explosive or flammable materials.

6. Accident Reports

Staff believes the accident reporting requirements should be rewritten in clear English.

Questions to stakeholders: Staff is also interested in knowing about *any* leak or spill involving hazardous materials and not just in those incidents described in the existing rule. What kind of administrative burden would this pose to railroad companies? Also, is the dollar amount of \$500,000 as a threshold for reporting property damage incidents to the Commission appropriate? Should it be higher, lower, or remain the same?

For the sake of simplicity regarding *who* should report accidents during joint operations, would it be appropriate to require *all* railroad companies to make a report regarding the accident/incident?

**What other state or federal agencies *are* notified by railroad accident/incident reports?
What other agencies *should be* notified of railroad accident/incidents?**

WAC 480-62-080 Accident reports. (1) Each railroad must promptly report by telephone to a specific telephone number and/or person to be designated from time to time by the Commission whenever the railroad learns of the occurrence of an accident and/or incident arising from the operation of the railroad which results in the:

(a) Leakage or spillage of hazardous material which could endanger railroad employees or the public at the scene of an accident;

- (b) Death of a railroad employee, rail passenger or any other person;
- (c) Death of or injury to any person involved in a railway-highway crossing accident;
- (d) Damages of five hundred thousand dollars or more to railroad and/or nonrailroad

property.

(2) Each report made by telephone shall be promptly followed by a telegraphic report to the Commission.

(3) Each report must state the:

- (a) Name of the railroad(s) involved;
- (b) Name and position of the reporting individual;
- (c) Time and date of the accident and/or incident;
- (d) Circumstances of the accident and/or incident;
- (e) Identity of casualties, if any; and
- (f) Identity of fatalities, if any.

(4) Accidents involving joint operations must be reported by the railroad that controls the track and directs the movement of trains where the accident has occurred.

7. Annual Reports

Staff believes this section should be rewritten in plain English, the different classes of railroads should be defined, and those who are exempt should be identified.

Question to stakeholders: Are there any other issues that need to be addressed by this rule?

WAC 480-62-085 Annual reports. (1) The annual report form R1 promulgated by the Interstate Commerce Commission is hereby adopted for Class I railroad companies. The Commission shall publish the annual report forms for the Class II and Class III railroad companies. At the close of each calendar year every railroad company must secure from the Commission two copies of the annual report form applicable to its business. The annual report is to be completed for the calendar year's operations. One copy of the completed annual report will be submitted to the Commission no later than May 1 of the succeeding year. The second completed copy is to be retained by the company.

(2) The regulatory fee for the Class I railroad companies will be due and payable upon a schedule established by Commission order.

8. Hazardous Materials

Staff believes the hazardous materials rules need to be rewritten in plain English and the adoption by reference needs to be updated.

Questions to stakeholders: Are there any other issues that need to be addressed?

WAC 480-62-090 Hazardous materials regulations. (1) The rules and regulations governing hazardous materials prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, parts 171 through 174, and parts 178 and 179, as well as and including all appendices and amendments thereto, in effect on January 1, 1992, are adopted and prescribed by the Commission to define hazardous materials for purposes of carriage by rail, and to state the precautions that must be observed in storage packaging, loading, and unloading such materials, and in maintaining, placarding, marking, and certifying railroad cars and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule shall be observed by all railroad companies operating in this state. A copy of the federal rules referenced in this chapter is available for inspection at the Commission branch of the Washington state library, located in conjunction with the Commission's headquarters office. A copy may be obtained from the secretary of the Commission, upon payment of any required fee, or from the United States government printing office, which operates a retail sales facility in Seattle, Washington.

(2) In addition to any accident reporting requirement now or hereafter prescribed by the Commission, every railroad company operating in this state who reports to the United States Department of Transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the Commission.

9. Bridge Safety Rules

Staff believes this rule needs to be rewritten in plain English and adopting FRA Railroad Workplace Safety rules should be considered.

Question to Stakeholders: Do any elements of the existing rules need to be updated, changed, or repealed?

WAC 480-62-100 Bridge safety rules. Whenever any railroad is involved in bridge construction, bridge structure repairs, track structure repairs or replacement on bridges, the railroad shall comply with the provisions of this rule, except that track structure repairs which are of a minor nature and short duration and can be completed working between the rails such as spot welding, spiking, and joint bolt replacement, are not subject to the safety belt, lifeline, lanyard, safety nets and life preserver requirements of this rule.

(1) Safety belts, lifelines, lanyards.

(a) Where workers are employed on railroad bridges twenty-five feet or more above the ground or water surface, and it is impractical to provide staging, ladders, scaffolds, or safety nets, safety belts and lifelines shall be provided and used.

(b) Lifelines, safety belts, and lanyards shall be used only for employee safeguarding. Any lifeline, safety belt, or lanyard actually subject to in service loading, as distinguished from static load testing, shall not be used again for employee safeguarding.

(c) Lifelines shall be secured to an anchorage or structural member capable of supporting a minimum dead weight of 5,400 pounds, and lifelines shall be of a sufficient length from the point

of their attachment so that a falling man will not swing into the substructure immediately below the floor of the bridge.

(d) Safety belt lanyard shall be a minimum of one-half inch nylon, or equivalent, with a maximum length to provide for a fall of no greater than six feet. The rope shall have a nominal breaking strength of 5,400 pounds.

(e) All safety belt and lanyard hardware shall be drop forged or pressed steel, cadmium plated in accordance with type 1, class B plating specified in Federal Specification QQ-P-416. Surface shall be smooth and free of sharp edges.

(f) All safety belts and lanyard hardware assemblies shall be capable of withstanding a tensile loading of 4,000 pounds without cracking, breaking, or taking a permanent deformation.

(2) Safety nets.

(a) Where workers are employed on railroad bridges twenty-five feet or more above the ground or water surface, and it is impractical to provide staging, ladders, scaffolds, safety belts and lifelines, safety nets shall be provided and used.

(b) Where safety net protection is required by this rule, operations shall not be undertaken until the net is in place and has been tested. The manufacturer's current certification of testing shall satisfy the requirements of this subsection.

(c)(i) Nets shall extend eight feet beyond the edge or the work surface where employees are exposed and shall be installed as close under the work surface as practical but in no case more than twenty-five feet below such work surface. Nets shall be hung with sufficient clearance to prevent user's contact with the surface or structures below. Such clearances shall be determined by impact load testing.

(ii) It is intended that only one level of nets be required for bridges.

(d) The mesh size of nets shall not exceed six inches by six inches. All new nets shall meet accepted performance standards of 17,500 foot-pounds minimum impact resistance as determined and certified by the manufacturers, and shall bear a label of proof test. Edge ropes shall provide a minimum breaking strength of 5,000 pounds.

(e) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(f) Connections between net panels shall develop the full strength of the net.

(3) Life preservers.

(a) Where workers are employed on railroad bridges less than twenty-five feet above the water surface and are working under conditions which expose them to a risk of drowning, they shall wear a United States Coast Guard approved life saving device, unless it can be shown that conditions, such as shallow water, are such that flotation would not be achieved.

(b) Prior to and after each use, the buoyant life saving device shall be inspected for defects which would alter their strength or buoyancy. Defective units shall not be used.

(c) Ring buoys with at least ninety feet of line shall be provided and readily available for emergency rescue operations. Distance between ring buoys shall not exceed two hundred feet.

(4) Boats.

(a) Where workers are employed on railroad bridges less than twenty-five feet above the water surface and are working under conditions which expose them to a risk of drowning, one life saving boat shall be immediately available.

(b) The boat requirement of this subsection shall not apply when the water surface is of such a nature due to swift currents, insufficient depth, or other conditions, that a boat may not be safely moored and used in effecting a rescue.

(c) Whenever boats cannot be used, well marked lifelines close to the water surface shall be provided, and wherever practical, the line shall be stretched across the water.

(5) Exemptions.

Bridges which have solid bottom ballast decks with walkways and handrails on both sides are exempt from the provisions of this rule, provided that the work being performed on the bridge does not involve or necessitate the removal of the walkways, handrails, or any portion of the deck.

10. Train Operations

It appears this rule was written in response to an accident that occurred at the referenced intersection several years ago. There are existing statutes and federal rules that are in place regarding stopping at railroad crossings. Staff has considered recommending repealing this rule, or if needed, writing a rule that would apply to the general situation rather than the specific.

Question to stakeholders: If this rule was repealed would it send a message that the Commission is not concerned about safety? What is the best way to handle this rule?

WAC 480-62-120 Train operations--Tacoma. All trains and yard trains handling railroad cars shall come to a full stop at a distance not greater than five hundred feet before the railroad crossing on the Pacific Division, 3rd subdivision of the Burlington Northern Railroad at the Muni Line and Union Pacific Diamond, Union Pacific, milepost 146.5, and shall not proceed across such crossing until it has been specifically determined that no other train is approaching the crossing, or is in any other respect in a position whereby a collision could occur.

PART 2 - New Issues

1. Clarifying Rules

Clarifying Rules: Staff would like to consider adding rules that clarify the processes and policies of the Commission. The Commission has included similar clarifying rules when reviewing other chapters of rules. Subjects for these possible rules include:

- a. Definitions - defines words and phrases
- b. Communicating with the Commission - Tells stakeholders how to contact the Commission (addresses, phone numbers, fax numbers and e-mail addresses).
- c. Document filing - Tells stakeholders how and where to file formal documents.
- d. Commission Proceedings - Directs stakeholders to the correct chapter of rules governing formal proceedings.
- e. Exemptions from rules - Outlines the process to be followed for any regulated company wishing to request an exemption from a rule.
- f. Compliance Policy - Defines the Commission policy for seeking voluntary compliance before issuing penalties or invoking other sanctions against an out-of-compliance company.

Question to Stakeholders: Would the above referenced issues be useful in rule?

2. Notification Issue

Notification. Based on comments the Commission has received in past hearings on railroad issues, Staff would like to explore how to notify communities of planned railroad activities. Staff believes such notice is important to ensure emergency services routes are adequate and traffic flow disruption is kept to a minimum.

Questions to Stakeholders: Would requiring community officials to be provided advance written notification of planned railroad activities be appropriate? If yes, how much advance notice is reasonable? Who should be notified? What activities should require notice? How should notification be handled in an emergency situation?

3. Blocking of Crossings

Blocking of Crossings: The Commission Staff has received many complaints concerning the blocking of crossings throughout the state. The issues involved in blocked crossings are complex because the legitimate needs of communities often compete with the legitimate needs of railroads. Local geography and how communities use crossings also make matters complicated, as does the amount of time needed for the procedure for breaking trains at crossings and reconnecting them.

Question to Stakeholders: Are there some basic concepts which can be formalized to eliminate a substantial number of blocked crossings? For other situations, are there considerations or procedures that can help reduce the problem?

4. Remote Control Trains

Remote Control Trains: Certain railroads are operating trains in certain situations by remote control. There are no specific rules governing these types of operations in Washington State.

Question for stakeholders: What type of concerns surround remote control operations? Would rules alleviate these concerns? To what level does the FRA address remote control train operations? Finally, should railroads notify the Commission when they plan to use remote controlled trains?

5. Motor Track Cars

Motor Track Cars: Commission Staff is concerned that operators of non-railroad owned track equipment operating on the rails may be unaware of safety rules concerning at-grade crossings.

Question to Stakeholders: What requirements, if any, should be imposed on railroad companies to ensure private operators will operate safely at grade crossings?

6. Post Accident Alcohol and Drug Testing.

Post Accident Alcohol and Drug Testing: Staff considered exploring whether to require testing if an engineer's post accident behavior provided probable cause to conduct such a test. However, after research into FRA's rules governing post-accident testing, Staff believes the FRA rules address this issue.

Question to stakeholders: Is there any reason this issue should be pursued?

7. Commuter Rail.

Commuter Rail. The Commission and FRA have rules concerning heavy rail tracks, crossings, and hazardous materials, and Staff enforces FRA and USDOT rules on these topics.

Question to Stakeholders: Given that commuter rail is scheduled to begin in December 1999, should the Commission be looking at any other safety related issues concerning commuter rails? Note: The FRA has just issued rules that address passenger safety.

8. Railroad Special Police

Railroad Special Police: Chapter 81.6 RCW authorizes the Governor to appoint special police for railroad companies. Federal rules (49 CFR Part 207) require railroads to provide states with particular information about each railroad police officer commissioned in the state. The Commission has not received this information. Staff has had recent inquiries from law enforcement agencies regarding: Who are railroad police for a certain railroad? What do they do? How can law enforcement activities be coordinated? Staff believes the Governor's office has jurisdiction in this matter, not the Commission.

The Commission has received written comments requesting that several other issues be addressed including such things as Commission authority over railroad special police, officer jurisdiction in surrounding communities, certification and qualification issues, vehicle markings and identification issues, and arrest and cost of incarceration.

Question to stakeholders: What other concerns exist regarding railroad police? Is this an appropriate issue to be addressed by the Commission? Would this subject be more appropriately addressed outside the rulemaking within a working group?

9. Petitions for Grade Crossing Improvements

Petitions for Grade Crossing Improvements: Whenever grade crossings are opened, closed, or

modified, or when changes are made to crossing signals, statutes require petitions requesting the change to be filed with the Commission and that the change be approved by the Commission. Staff would like to clarify the situations requiring a petition to be filed and to improve the petition process.

Question to Stakeholders: What situations should require a petition to be filed? How can the current process for filing petitions be improved?

10. Crossing Surfaces Standards

Crossing Surface Standards: The Commission Staff has received a number of complaints about crossing surfaces. Currently there are no specific standards governing maintenance of crossing surfaces. Staff is interested in establishing standards so that direction to railroads, road authorities, and owners of industrial railroads or spurs can be more clear.

Question to stakeholders: Are there specific standards for crossing surfaces that can be reasonably followed by all parties who might be responsible for maintaining those surfaces and the approaches to the crossings? Should specific crossing surface materials be required for specific applications? Who should be required to maintain the elevation of a crossing and its approaches?

11. Signal Maintenance

Signal Maintenance: Specific signal maintenance rules do not exist for industrial railroads and other entities with crossings that are not subject to FRA rules.

Question to Stakeholders: Should FRA rules be adopted for the situations mentioned above to ensure public safety and consistency?

12. Procedures for Implementing Whistle Ban Requests

Procedures for Implementing Whistle Ban Requests: State statutes require cities and counties that approve an ordinance allowing whistle bans at crossings to notify the Commission prior to enacting the ordinance to allow the Commission to comment on the proposed ordinance. By statute, crossings at which whistles are banned must be equipped with "supplemental safety measures," generally requiring the crossing to be reconstructed. Statutes also require that any proposed reconstruction of a crossing be approved by the Commission.

Question to Stakeholders: Given the Commission's limited involvement in approving requests for whistle bans, what procedures should the Commission adopt concerning this issue?

13. Miscellaneous Reporting Requirements

Miscellaneous Reporting Requirements: The major railroads sometimes provide copies of track profiles, general codes of operating rules, timetables, system general orders and special instructions to the Commission. These often prove helpful in the day to day work of Commission Staff, and in answering questions posed by the public. Having these materials allows Commission Staff to limit contacts with rail authorities to those questions and concerns not answered by such materials. It would also be helpful to have accurate, up-to-date, information on railroad ownership and contact persons for specific types of questions including spurs and branch lines.

Question to stakeholders: Is there any reason why a rule should not be adopted formalizing the practice currently in place, and extending it to all railroads? What is the best way to minimize any burden this might impose? Is there any reason why railroads should not be required to provide certain up-to-date information as mentioned above? Is there any other information that would assist the railroads if Commission Staff kept it for use by Staff and/or by the railroads?

Part 3 - Stakeholder issues

1. Train Speeds.

Train Speeds. The Commission has received written comments requesting it to consider writing rules regarding train speeds. Staff has discussed the issue and is of the opinion that under federal law, the Commission can only consider whether unique local conditions are present when considering each request. Therefore, Staff believes a rule regarding train speeds would not be likely to address all potential variables. Rather it is important for the Commission to make its decision on a case-by-case basis. Staff proposes withdrawing this issue from consideration in this rulemaking.

Question to stakeholders: Is there a need to address this issue in this rulemaking?

2. Railroad crossing coordination with community comprehensive development plans.

Community Comprehensive Development Plans. The Commission has received written comments requesting that the Commission consider writing rules requiring railroad crossings (locations, openings, and closings) be coordinated with community comprehensive development plans. Staff believes such development plans are currently considered when these types of crossing activities come before the Commission through the petition process.

Question to Stakeholders: What are the scope of problems others have encountered by not having a rule as described above? What are the costs and benefits of such a rule?