

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET TR-140359
)	
CHEMTRADE PERFORMANCE)	ORDER 01
CHEMICALS,)	
)	
Petitioner,)	
)	
Seeking Exemptions from the)	ORDER GRANTING
Provisions of WAC 480-60-040 and)	PERMANENT
480-60-050 Relating to Overhead and)	EXEMPTIONS FROM
Side Clearance Rules.)	RULES
.....)	

BACKGROUND

- 1 On February 26, 2014, Chemtrade Performance Chemicals (Chemtrade) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting exemption from WAC 480-60-040, which requires railroad companies to maintain an overhead clearance of at least 22 feet 6 inches from the top of the rail to the nearest structure. In addition, Chemtrade requests an exemption from WAC 480-60-050, which requires railroad companies to maintain a side clearance of at least 8 feet 6 inches.

- 2 Chemtrade’s petition relates to an existing tank car unloading station on their Kalama facility. The unload facility consists of a load/unload station on a single dead end spur on the Kalama site. The existing unloading station gangway or platform is being upgraded with a new retractable gangway with a safety cage to comply with OSHA fall protection requirements. BNSF Railway Co. (BNSF) is the only railroad operator providing service within the Chemtrade facility.

- 3 The bottom of the safety cage, in its retracted and upright position, is 19 feet 9 inches above the top of the rail and requires permanent exemption from the vertical clearance rules.

- 4 The unloading station gangway will be extended and operated by Chemtrade employees after delivery of rail cars by BNSF. The platform will then be returned to the fully retracted position prior to removal of rail cars by BNSF. The lower vertical clearance of the platform in the upright position does not negatively affect BNSF operations. BNSF will not service the unloading facility area unless the platform has been returned to the

fully retracted upright position. BNSF will issue instructions to their train crews advising of the maximum height of rail cars allowable to this spur track.

5 The unloading structure is to be located inside the fenced area at Chemtrade. With the proposed clearance and fully stowed retractable platform, BNSF trains will be able to clear the structure; however, the close clearance would present a risk to individuals riding on the top of the rail car within the fenced area. Although train crewmembers have no reason to ride on the top of a rail car, all parties agree that any clearance exemption should be conditional upon a prohibition against riding on the top of a rail car approaching or underneath the unloading structure; and clearly marking and signing the unloading facility as having lower vertical clearance. The fully stowed retractable platform allows for ample clearance of a tank car and a locomotive.

6 Side clearances, as described in WAC 480-60-050, must be at least 8 feet 6 inches unless one of the provisions of the section applies. Provision six of WAC 480-60-050 describes minimum clearances for retractable platforms which are attached to permanent structures. The clearance of such platforms “must be designed so that when it is not in use no part of it shall fall within the clearance limits herein prescribed for a platform of that height above the top of the rail.” The proposed retractable platform meets the definition of “icing platforms” defined in WAC 480-60-030, as it is a structure used in performing the service of cars in the handling of commodities. Provision five in WAC 480-60-050 describes icing platforms, a similar height structure, as requiring a side clearance of 7 feet 3 inches.

7 The minimum side clearance attained by Chemtrade’s proposed design meets the criteria required by WAC 480-60-030 for icing platforms. The safety cage in the retracted and fully stowed position has approximately 8 feet of clearance from the track centerline.

8 BNSF is in support of the proposed unload facility having a lower vertical clearance of 19 feet 9 inches and a restricted side clearance of 8 feet.

9 Commission Staff reviewed the request and recommended granting Chemtrade’s request for exemption, subject to the following conditions:

- (a) Chemtrade will post and maintain a sign stating “No auto racks, high cubes or other tall cars due to close vertical clearance.”
- (b) Chemtrade will post and maintain a sign stating “No riding top of rail cars.”

- (c) Chemtrade will add a section to the unloading procedures outlining the requirements for raising the service platform and safety cage when the unloading has been completed. This will prevent a collision between rail equipment and a lowered platform.
- (d) Chemtrade will post and maintain a sign stating “Restricted side clearance”.
- (e) BNSF will issue bulletins to all train crews operating at the facility prohibiting the practice of riding on the top or side of any on-track equipment when approaching or leaving the unloading facility.
- (f) Upon completion of the facility improvement and installation of the signage, Chemtrade must notify Commission Staff within 60 days. Acceptance is subject to inspection by Commission Staff, verifying that signage, procedures, bulletins, and the timetable are in full compliance with applicable laws, regulations and the conditions specified herein.

FINDINGS AND CONCLUSIONS

- 10* (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington having jurisdiction over railroad clearance requirements. RCW 80.28.010 and WAC 480-60.
- 11* (2) BNSF is engaged in the business of providing railroad services within the state of Washington and is a public service company subject to Commission jurisdiction.
- 12* (3) BNSF is subject to WAC 480-60-040, which requires railroad companies to maintain an overhead clearance of at least 22 feet 6 inches from the top of the rail to the nearest structure.
- 13* (4) BNSF is subject to WAC 480-60-050, which requires railroad companies to maintain a side clearance of 8 feet 6 inches.
- 14* (5) Under WAC 480-60-020(3), the Commission may grant an exemption from the provisions of any rule in WAC 480-60, if consistent with the public interest, the purposes underlying regulation and applicable statutes. See also WAC 480-07-110.

- 15 (6) Commission Staff investigated the request and recommended that it be granted. The permanent exemption will support a safer unloading environment, which will improve safety for Chemtrade employees. The addition of the new retractable gangway with a safety cage, train crew timetable bulletin, warning signs, and unloading procedure requirements all contribute to increased overall safety during unloading operations.
- 16 (7) This matter came before the Commission at its regularly scheduled meeting on March 27, 2014.
- 17 (8) After review of the petition filed in Docket TR-140359 by Chemtrade on February 26, 2014, and giving due consideration, the Commission finds that the exemptions are in the public interest and are consistent with the purposes underlying the regulation and applicable statutes and should be granted.

ORDER

THE COMMISSION ORDERS:

- 18 (1) After the effective date of this Order, Chemtrade Performance Chemicals is granted exemptions from WAC 480-60-040, relating to overhead clearances and WAC 480-60-050, relating to side clearances.
- 19 (2) These exemptions are subject to the following conditions:
- (a) Chemtrade Performance Chemicals will post and maintain a sign stating “No auto racks, high cubes or other tall cars due to close vertical clearance”.
 - (b) Chemtrade Performance Chemicals will post and maintain a sign stating “No riding top of rail cars”.
 - (c) Chemtrade Performance Chemicals will add a section to the unloading procedures outlining the requirements for raising the service platform and safety cage when the unloading has been completed. This will prevent a collision between rail equipment and a lowered platform.

- (d) Chemtrade Performance Chemicals will post and maintain a sign stating “Restricted side clearance”.
 - (e) BNSF will issue bulletins to all train crews operating at the facility prohibiting the practice of riding on the top or side of any on-track equipment when approaching or leaving the unloading facility.
- 20 (3) The Commission retains jurisdiction over the subject matter and BNSF to effectuate the provisions of this Order.
- 21 (4) Upon completion of the unload facility and installation of the signage, Petitioner must notify the Commission within 60 days. Acceptance is subject to inspection by Commission Staff, verifying that signage, unloading procedures and bulletins to train crews are in full compliance with applicable laws, regulations and the conditions specified herein.

The Commissioners, having determined this Order to be consistent with the public interest directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective March 27, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING, Executive Director and Secretary