



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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June 22, 2022

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
ON PROPOSED RULES
(By July 18, 2022)**

and

**NOTICE OF PROPOSED RULE ADOPTION HEARING
(Set for August 1, 2022, at 1:30 p.m.)**

Re: Rulemaking pertaining to the establishment of minimum crew sizes on certain trains,
Docket TR-200536

TO ALL INTERESTED PERSONS:

The Washington Utilities and Transportation Commission (Commission) provides this notice to inform you of the progress made in this rulemaking docket concerning the possible adoption of proposed revisions to WAC 480-62, Railroad Companies – Operations. The changes implement House Bill 1841 (HB 1841), Laws of 2020, Chapter 170, which pertains to the establishment of minimum crew sizes on certain trains. 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.

On July 20, 2020, the Commission filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101). The Commission is directed by the Legislature in chapter 81.40 RCW to:

- Apply specific definitions to this rule.
- Require common carriers of freight or passengers in the state, with specific exceptions, to operate and manage all train crews and switching assignments with no less than two crewmembers.

- Grant automatic waivers to the train crew size requirement in RCW 81.40.015 to certain railroad carriers.
- Order railroad carriers to increase the number of railroad employees, require additional crewmembers, or direct the placement of additional crewmembers, if the Commission determines the increase is necessary to protect the safety, health, and welfare of the public, passengers or railroad employees, to prevent harm to the environment, or to address site specific safety or security hazards.
- Assess fines for violations of the rule.

The effect of the proposed rule (WAC 480-62-255) and the amendment to WAC 480-62-125 is the implementation of the new legislation.

The Commission circulated draft rules, reviewed the comments it received from stakeholders, and prepared proposed rules for adoption. The Commission also issued two Small Business Economic Impact Statement Questionnaires to obtain information on any economic impact of these rules on the companies. The Commission received no responses to either questionnaire. The draft rules, comments, and questionnaire are available on the Commission's website at <http://www.utc.wa.gov/200536>.

On March 18, 2022, the Commission filed a Notice of Proposed Rulemaking (CR-102) with the Office of the Code Reviser. Pursuant to the CR-102, the Commission held an adoption hearing on May 19, 2022.

In June 2022, the Commission became aware that one of its primary stakeholders had not been served with the CR-102 and had been aware of neither the date of the adoption hearing nor the opportunity to comment on the proposed rules. To rectify the omission and provide ample opportunity for all interested persons and stakeholders to comment on the proposed rules, the Commission filed a supplemental Notice of Proposed Rulemaking (Supplemental CR-102) with the Code Reviser on June 22, 2022. The proposed rules would implement legislation passed in 2020, HB 1841, Laws of 2020, chapter 170. The proposed rules are available for inspection on the Commission's website at <https://www.utc.wa.gov/casedocket/2020/200536/docsets>. The Supplemental CR-102 filing restarts the final phase of the rulemaking process, which includes a written comment period, a public adoption hearing, and the Commission's decision.

WRITTEN COMMENTS

The Commission gives notice of the opportunity to submit written comments on the proposed rules. Written comments must be filed with the Commission by **5 p.m. on July 18, 2022**. Pursuant to WAC 480-07-250, written comments on draft rules must be submitted to the Commission in electronic form. As provided in WAC 480-07-140(5), you must submit those responses 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 them via 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 document(s) to be filed. Submissions should include:

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

The Commission will post all written comments on its website at <http://www.utc.wa.gov/casedocket/2020/200536/docsets>.

ADOPTION HEARING

The Commission will conduct a virtual public adoption hearing at **1:30 p.m. on August 1, 2022**. To participate by phone, call (253) 215-8782 and enter the Meeting ID: 852 5273 5543# and the Passcode: 223459#. To participate by Zoom, please use the following link: <https://utc-wa.gov.zoom.us/j/85252735543?pwd=UjhXOE9ITIFnNkt0TjR0TkZqZHhQQT09>.

If you wish to participate and need an interpreter, one will be provided at no cost to you. If you need an interpreter, please contact the Commission at least one business day prior to the meeting by calling (360) 664-1140 or by sending an email to paige.doyle@utc.wa.gov.

The Commission is committed to providing reasonable accommodations to participants with disabilities. If you need a reasonable accommodation for the meeting, please contact the Commission at least one business day prior to the workshop by calling (360) 664-1132 or by sending an email to human_resources@utc.wa.gov. For TTY service, please call the Washington Relay Service at 1-800-833-6384 or 711.

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

AMANDA MAXWELL

Executive Director and Secretary