BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Amending and Adopting Rules in	)	DOCKET TR-151079
	)	GENERAL ORDER R-584
WAC 480- 62 WAC	)	
	)	ORDER AMENDING AND
Relating to Rail Safety	)	ADOPTING RULES
	)	PERMANENTLY
. . . . .	)	

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 15-22-105, filed with the Code Reviser on November 4, 2015. The Commission has authority to take this action pursuant to RCW 80.01.040, RCW 80.04.160, RCW 81.24.010, RCW 81.44, RCW 81.53.010, and RCW 81.53.240.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).

3 **DATE OF ADOPTION:** The Commission adopts this rule on the date this Order is entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the Commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the Commission's responses to the comments reflecting the Commission's consideration of them.

5 To avoid unnecessary duplication in the record of this docket, the Commission designates the discussion in this Order, including appendices, as its concise explanatory statement. This Order provides a complete but concise explanation of the agency's actions and its reasons for taking those actions.

6 **REFERENCE TO AFFECTED RULES**: This Order amends and adopts the following sections of the Washington Administrative Code:

Amend	WAC 480-62-130	Application of this chapter.
Adopt	WAC 480-62-260	First-class cities opt-in.
Adopt	WAC 480-62-270	Safety standards at private crossings.
Amend	WAC 480-62-300	Annual reports—regulatory fees.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** The Commission filed a Preproposal Statement of Inquiry (CR-101) on May 20, 2015, at WSR # 15-11-092. The statement advised interested persons that the Commission was considering a rulemaking to implement provisions of ESHB 1449, passed and signed into law in the 2015 legislative session, including a provision that adopts a requirement that railroads hauling crude oil must report information about their financial responsibility in the annual reports they submit to the Commission. The Commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3), and by sending notice to all railroad companies operating in the state and the Commission's list of transportation attorneys. The Commission posted the relevant rulemaking information on its website at www.utc.wa.gov/151079. Pursuant to the notice, the Commission received written comments on June 22, 2015, and convened a workshop for interested stakeholders on July 8, 2015.

8 On August 21, 2015, the Commission issued a notice soliciting written comments from stakeholders on draft rules by September 21, 2015, and notice of second workshop on October 1, 2015.

9 On September 28, 2015, the Commission issued a notice cancelling the October 1, 2015, workshop.

10 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on November 4, 2016, at WSR # 15-22-105. The

Commission scheduled this matter for oral comment and adoption under that Notice at 1:30 p.m., Wednesday, January 6, 2016, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission by December 7, 2015.

11 **CONTINUED NOTICE OF PROPOSED RULEMAKING**: The Commission filed a Continuance of the Notice of Proposed Rulemaking (CR-102) on December 29, 2015, at WSR # 16-02-020. The Commission rescheduled this matter for oral comment and adoption under Notice WSR # 15-22-105 at 2:00 p.m., Thursday, January 7, 2016, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.

12 **WRITTEN COMMENTS:** The Commission received written comments in response to the WSR # 15-22-105 Notice from Jean M. Avery, Washington Department of Ecology (Ecology), Columbia Riverkeeper, Friends of the Columbia Gorge, ForestEthics, Sierra Club Washington Chapter, The Lands Council, Washington Environmental Council, and Washington Physicians for Social Responsibility, BNSF Railway Company (BNSF), Union Pacific Railroad Company (UPRR), Fred Millar, and Senator Christine Rolfes. Summaries of all written comments and Commission's responses are contained in Appendix A, attached to, and made part of, this Order.

13 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on January 7, 2016, before Chairman David W. Danner, Commissioner Philip B. Jones, and Commissioner Ann E. Rendahl. The Commission heard comments at the hearing from Pat Dickason, Daniel McCabe, Robert Mack, Janet Lind, Sally Jacky, Matt Petryni, Alex Ramel, Matt Krogh, Don Steinke, Laura Ackerman and Hector Gruncaum.

14 **SUGGESTIONS FOR CHANGE THAT ARE REJECTED/ACCEPTED:** The Commission proposed rules to cover three areas: (1) establish minimum safety signage requirements at private crossings along oil train routes and Commission inspection of those crossings; (2) permit first-class cities to opt into the Commission's grade crossing inspection program should they choose to do so; and (3) require railroad companies to submit information to the Commission concerning a company's ability to pay to clean up a reasonable worst case spill resulting from the railroad's transportation of crude oil in Washington.

15 Written and oral comments suggested changes to the proposed rules. The Commission received comments from Ms. Avery, UPRR, and the City of Tacoma concerning WAC 480-62-270, the proposed rule establishing safety standards at public crossings. The remaining comments concerned the language in the proposed rule establishing the reporting requirements for railroad company financial responsibility. The suggested changes and the Commission's reason for rejecting the suggested changes are included in Appendix A. The Commission also provides the following additional explanation for adopting the proposed rule that implements the statutory requirement that railroad companies report on their ability to pay the cleanup costs of a reasonable worst case spill.

16 The Commission "possesses only those powers granted by statute."[1] The Legislature has directed the Commission to require railroad companies to include in the annual reports they file with the Commission "a statement of whether the railroad has the ability to pay for damages resulting from a reasonable worst case spill of oil, as calculated by multiplying the reasonable per barrel cleanup and damage cost of spilled oil times the reasonable worst case spill volume as measured in barrels."[2] This is strictly a reporting requirement. The statute expressly prohibits the Commission from using the information in this statement as a basis for penalizing the company,[3] assigning liability to the company, or establishing liquidated damages for a spill or accident.[4]

17 Our charge, then, is to determine and give effect to the Legislature's intent.[5] The rules of statutory construction require that we discern the plain meaning of the statute by looking to "the ordinary meaning of the language at issue, the context of the statute in which the provision is found, related provisions, and the statutory scheme as a whole."[6] The statute obligates railroad companies to report their ability to pay the "cleanup and damage cost of spilled oil" resulting from a "reasonable worst case spill." The Legislature, however, did not define those terms.

18 The Commission received many comments on the meaning of "reasonable worst case spill" and "cleanup and damage cost of spilled oil." Railroad companies contend that the

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[1] *E.g., In re Electric Lightwave, Inc.*, 123 Wn.2d 530, 536, 869 P.2d 1045 (1994).

[2] RCW 81.04.560(1).

[3] RCW 81.04.560(3).

[4] RCW 81.04.560(4).

[5] *E.g., Department of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 9-10, 43 P.3d 4 (2002).

[6] *Lake v. Woodcreek Homeowners Ass'n*, 169 Wn.2d 516, 526, 243 P.2d 1283 (2010) (quoting *State v. Engel*, 166 Wn.2d 572, 578, 210 P.3d 1007 (2009)).

rule the Commission has proposed is flawed and that the Legislature's reporting requirement is preempted by federal law.[7] Other commenters maintain that the proposed rule underestimates both the potential for the amount of oil that will be spilled as a result of rail accidents and the damages associated with such spills.[8] Given the lack of consensus on the plain meaning of "reasonable worst case spill" and "clean up and damage cost of spilled oil," we apply the rules of statutory construction to determine and give effect to the Legislature's intent when it used those terms.

Reasonable Worst Case Spill

19 We find it helpful to begin our analysis with some context. The genesis of the financial responsibility obligation in the statute and the Legislature's use of the term "reasonable worst case spill" is the Oil Transportation Study (Study) led by the Department of Ecology (Ecology) at the direction of the 2014 Legislature.[9] The Governor tasked Ecology with analyzing oil transportation by ship and rail and developing recommendations to enhance safety and environmental stewardship.[10] The Study recommendations include extending Ecology's certification of financial responsibility program[11] to railroads, requiring railroads to demonstrate a financial ability to pay for costs and damages of an oil spill into Washington waters. The governor incorporated this recommendation into the original draft of HB 1449, the legislation he requested based on the findings and recommendations in the Study. The Legislature amended this provision to require only that railroads submit this information as part of their annual reports to the Commission. The Legislature also required that railroad companies report only on their ability to pay for a "reasonable worst case spill."

20 In this context we examine the language of the phrase "reasonable worst case spill." Merriam-Webster defines a "worst case" as one "involving, projecting, or providing for the worst possible circumstances or outcome of a given situation."[12] The Legislature has defined "worst case spill" in the context of vessel oil spill prevention and response as

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[7] *See* Comments of Melissa B. Hagen, UPRR ("These requirements are preempted by federal law, compromise the integrity of Union Pacific's confidential business records and are blatantly discriminatory on their face.")

[8] Comments of Columbia Riverkeeper, *et al*. ("Assuming that a worst case scenario event were to be a result of a 100% spill of a typical 3,000,000 gallon oil train, that $6.3 billion comes to $2100 per gallon.")

[9] https://fortress.wa.gov/ecy/publications/SummaryPages/1508010.html.

[10] http://www.governor.wa.gov/sites/default/files/directive/dir_14-06.pdf.

[11] RCW 88.40.020.

[12] http://www.merriam-webster.com/dictionary/worst%E2%80%93case.

"the largest foreseeable spill in adverse weather conditions."[13] The statute at issue here, however, adds the word "reasonable" to modify "worst case spill." "Reasonable" is a common term in the law and is generally defined as "fair, proper, just, moderate, suitable under the circumstances" and "[n]ot immoderate or excessive."[14] Similarly, Merriam-Webster defines "reasonable" as "not extreme or excessive."[15] The term "reasonable worst case spill" thus is ambiguous because of the inherent conflict that arises from modifying an extreme – worst case – with an adjective that means "not extreme."

21 We nevertheless must give effect to all of the language in the statute.[16] We resolve the inherent conflict between "reasonable" and "worst" by interpreting "reasonable worst case spill" to mean a foreseeable oil spill that, while not as devastating as the worst possible incident, is nevertheless of high consequence and would have a significant impact on the citizens of this state.

22 To give practical meaning to that definition, we look to the federal agencies charged with regulating railroads, the Pipeline Hazardous Materials Safety Administration (PHMSA) and the Federal Railroad Administration (FRA). Those agencies engaged in a rulemaking to establish enhanced tank car safety standards. That proceeding resulted in the most complete and exhaustive regulatory analysis available to examine all factors associated with the enhanced tank car rule.[17] PHMSA and the FRA developed the rule by calculating the results of "high consequence events," which "would cause greater environmental damages than a typical derailment."[18] PHMSA then applied data from the incident in Lac Mégantic, Quebec, the most catastrophic crude oil car derailment in North

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[13] RCW 88.46.010(30). In implementing this definition, Ecology requires an Aframax tanker holding 33 million gallons of oil to have a certificate of financial responsibility of $1 billion. An Articulated Tug Barge holding 9 million gallons of oil has the same requirement. http://www.oilspilltaskforce.org/docs/project_reports/CofrMatrix2.pdf. Under the rule we adopt today, a unit train holding approximately 3 million gallons of oil at a speed greater than 40 mph would need to report a financial responsibility of approximately $650 million.

[14] Black's Law Dictionary 1138 (5th Ed. 1979).

[15] http://www.merriam-webster.com/dictionary/reasonable.

[16] *Lake*, 169 Wn.2d at 526.

[17] Final Regulatory Impact Analysis, Docket No. PHMSA-2012-0082 (HM-251), Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains.

[18] Final Regulatory Impact Analysis, Docket No. PHMSA-2012-0082, at 52.

America,[19] which PHMSA scaled down to approximate the results of a high consequence event.

23 We find that PHMSA's approach to determining "high consequence events" is reasonable. The Commission, therefore, has quantified a "reasonable worst case spill" based on PHMSA's scaled down approach.[20] As part of that approach, PHMSA calculated that the likelihood of high consequence events varies directly with the square of the train's speed – the faster a train is traveling, the higher the percentage of tank cars that are likely to derail and spill the oil they are carrying.[21] That determination is based on the assumption that all loaded unit trains are of equal mass and that the kinetic energy (*i.e.*, energy associated with motion) generated by a unit train in motion will be a key factor in predicting the number of cars in a possible derailment,[22] as well as the potential release of oil[23] and extent of the damage[24] from oil to those cars and surrounding area. Accordingly, our rule requires each railroad company to calculate the amount of oil involved in a reasonable worst case spill through a formula that takes a percentage of the unit train, based on the highest operating speed of the train when moving oil, and multiplies that percentage by the company's largest train load of crude oil, measured in barrels, moved in the previous calendar year.[25]

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[19] *See* Railway Investigation Report R13D0054 ("As a result of the derailment and the ensuing fires and explosions, 47 people died, and about 2000 people were evacuated. Forty buildings and 53 vehicles were destroyed. The derailed tank cars contained about 6.7 million litres of petroleum crude oil, about 6 million litres of which were released, contaminating approximately 31 hectares of land. An estimated 100,000 litres of crude oil ended up in Mégantic Lake and the Chaudière River.")

[20] Final Regulatory Impact Analysis, Docket No. PHMSA-2012-0082, at 101.

[21] Final Regulatory Impact Analysis, Docket No. PHMSA-2012-0082, at 52.

[22] FRA Emergency Order No. 30, Notice No.1.

[23] Xiang Liu, Mohd Rapik Saat, Christopher P.L. Barkan, Probability analysis of multiple-tank-car release incidents in railway hazardous materials transportation, Journal of Hazardous Materials 276 (2014) ("Train speed has a two-fold effect on the number of tank cars releasing. First, on average, lower speed derailments result in fewer cars derailed. Second, as already discussed, lower derailment speed results in a lower release probability of a derailed tank car compares the distribution of tank car releases by derailment speed.")

[24] DOE/DOT Tight Crude Oil Flammability and Transportation Spill Safety Project, at 14 (March 2015).

[25] For example, a railroad company that transports oil would have to report both the company's largest load of crude oil by tank car and its maximum operating speed. The calculation of potential oil spilled would result from (a) dividing the maximum operating speed by 65 mph (the speed of the train in the Lac Mégantic accident); (b) squaring the results of the maximum operating speed divided by 65; and (c) multiplying the squared amount by the number of tank cars in the largest unit train moved by the railroad in the previous year. The result of this calculation will determine the likely amount of oil spilled in a "reasonable worst case" spill involving rail transporters.

24 Railroad industry commenters in this rulemaking contend that PHMSA's approach is overstated and inapplicable. They propose that the Commission determine a reasonable worst case spill based on the most probable number of tank cars derailed or on an historical analysis of the average number of tank cars that have derailed. We reject that proposal. Had the Legislature intended that the Commission determine "the most probable" or "historic average" oil spill, the statute would have used those terms. Instead, the Legislature used the term "reasonable worst case spill" – a term not limited to historical averages or upon probability derivatives based upon this history. The Commission must give meaning to the statutory language, and we reject the railroads' proposal as being inconsistent with that language. PHMSA's approach, although developed in a different context, provides an appropriate methodology for defining a "reasonable worst case spill."

25 Other commenters urge the Commission to recognize that far worse oil spills are more likely than the "high consequence events" that PHMSA has calculated. They recommend that we use the events in Lac Mégantic as the basis for calculating a reasonable worst case spill. Again, we decline that recommendation. We certainly are aware that Lac Mégantic was the worst oil by rail spill in North America, and that even more disastrous spills are conceivable. The Legislature, however, did not authorize the Commission to gather information on railroad companies' ability to pay the costs of a worst case spill. Rather, we may only determine what constitutes a *reasonable* worst case spill, and the PHMSA approach comports with that legislative direction.

Cleanup and Damage Cost of Spilled Oil

26 Just as the Legislature limited the Commission to assessing what constitutes a "reasonable worst case spill," we must determine the "cleanup and damage cost of spilled oil." The plain meaning of this phrase is that the Commission must consider costs associated with cleaning up the spilled oil and compensating for the damage caused by that oil. The damage, however, must result from "spilled oil." As we explain below, we do not interpret that term to include personal injury, property damage, and other liabilities resulting from a fire or explosion, rather than from the spill itself.

27 As part of the Commission's analysis, we looked at numerous sources to determine the reasonable cost of cleaning up spilled oil and the range of compensation for damages caused by such a spill. These sources included, but were not limited to, Ecology's

Contingency Plan Rulemaking,[26] California Contingency Plan Rulemaking,[27] and railroad derailment data and cleanup costs.[28] The Commission also reviewed and considered stakeholder comments, and we ultimately concluded that the data compiled by the federal government as part of its enhanced tank car rulemaking was the most reliable and therefore reasonable.

28 The literature on the subjects of cleanup costs and damage assessments identified in the PHMSA and FRA proceeding was both comprehensive and well-analyzed. It found that the weighted average of the cost estimates per gallon of spilled crude oil, including marine, pipeline, and rail spills, is $407 to $415.[29] PHMSA's Final Regulatory Impact Analysis for the federal enhanced tank car rule estimated that costs for crude oil cleanup for rail carriers was $200 per gallon, but "the review found that damages could be as high as twice that amount for crude oil spills."[30] In addition, a 1999 study estimated a cost of $326 per gallon for cleanup alone,[31] and a 2012 study showed a cleanup cost of $378.34 for crude oil by rail.[32] PHMSA recognized that it is unlikely that any of these estimates capture the comprehensive societal damages that result from these incidents.[33]

29 The Commission finds that the weight of the available evidence supports a minimum estimate of "cleanup and damage cost of spilled oil" of $400 per gallon or $16,800 per barrel. Accordingly, the rule we adopt requires railroad companies to demonstrate their ability to pay the costs to clean up a reasonable worst case spill of oil, calculated as $16,800 per barrel multiplied by the percentage of barrels in the largest train load of crude oil likely to be spilled.[34] While this assessment has been criticized by several

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[26] Final Cost Benefit Analysis for Oil Spill Contingency Planning, Oil Spill Contingency Plan Rules, Pub. No. 06-08-020.

[27] 14 CCR § 817.04 § 817.04. Inland Facilities.

[28] Final Regulatory Impact Analysis, Docket No. PHMSA-2012-0082, at 87.

[29] *Id*. at 115.

[30] Final Regulatory Impact Analysis, Docket No. PHMSA-2012-0082, at 86.

[31] Etkin, D.S. "Estimating Clean-up Costs for Oil Spills," Proceedings, International Oil Spill Conference, 1999.

[32] Marruffo, Amanda, Hongkyu Yoon, David J. Schaeffer, Christopher P. L. Barkan, Mohd Rapik Saat, and Charles J. Werth. "NAPL Source Zone Depletion Model and Its Application to Railroad-Tank-Car Spills." Groundwater 50, no. 4 (2012): 627-32. This model is used to predict the relative impact of crude oil or ethanol released from railroad-tank car accidents on soil and groundwater contamination and cleanup times.

[33] Final Regulatory Impact Analysis, Docket No. PHMSA-2012-0082, at 115.

[34] For more detailed discussion of this issue, see Staff's January 7, 2016, memorandum concerning Rail safety rulemaking related to ESHB 1449, Docket TR-151079 Oil Train Safety Rulemaking, available on the Commission's website in this docket.

stakeholders, none of them offered specific reasonable alternatives to the PHMSA analysis.[35]

30 Several commenters contend that these costs are far too low. They point to the billions of dollars in loss resulting from the Lac Mégantic incident and to the enormous devastation and resulting costs that would result from a spill in any of the state's waterways that trains carrying oil parallel or cross. As PHSMA observed, however, an event like Lac Mégantic "would not be representative of damages from a typical accident or even a high consequence accident."[36] We agree with PHMSA on this point. As discussed above, promulgating a rule based on the incident in Lac Mégantic would exceed the Commission's authority under RCW 81.04.560. The Legislature did not establish a specific benchmark for the Commission to determine the magnitude of oil spills and scope of damages. Accordingly, we must employ our expertise and discretion to make those determinations, and we conclude that our rule reasonably does so based on the information available.

31 We recognize that even cleanup and damage costs of spilled oil likely would be much higher if a spill occurs in areas close to the Columbia River, Puget Sound, the Spokane River and tributaries, or any of the other environmentally sensitive areas in Washington. At the same time, however, we must have a sound and credible factual basis for any cost estimates we establish. If more evidence becomes available, especially from the relevant federal authorities such as PHMSA or FRA, we may revisit this issue in the future. For now, we believe the studies and data we cite above persuasively provide a solid foundation for the analysis and cost estimates underlying the rule we adopt today.

32 Finally, we emphasize that RCW 81.04.560 authorizes the Commission only to obtain information, none of which may be used as the basis of enforcement action against the railroad companies providing it. We construe this authorization and limitation as reflecting the legislative purpose to obtain data on the hazards and financial consequences of oil train operations in Washington. We therefore seek to maximize the information the railroads make publicly available about those operations. The rule we adopt obligates the railroads to inform the Commission of the largest amount of oil they transport on a train,

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[35] *See, e.g.*, Comments of BNSF ("The definition of reasonable worst case in the CR101 and CR102 are flawed. The formula focuses on one aspect of rail safety – speed. There are numerous other factors that may influence the potential of a rail car carrying crude oil to derail and spill."); Comments of Columbia Riverkeeper, *et al*. ("Worst case planning should include all risk categories."); Comments of Fred Millar ("The Commission's cleanup cost calculations are dubious. The Commission process for calculating fees does not properly weight safety.").

[36] Final Regulatory Impact Analysis, Docket No. PHMSA-2012-0082, at 87.

the maximum speed of that train, and whether the company has the financial ability to pay to clean up a reasonable worst case spill resulting from a derailment or other accident involving that train. Such information provides the Commission and the public with a clearer picture of the possible perils presented by the transportation of oil by rail in Washington.

33 The recommendations the railroads and other commenters have made, on the other hand, would result in the railroads reporting less or no information about oil trains in Washington. Both sets of proposals rely on data from occurrences outside this state – an historic national average of oil train cars derailed (as proposed by the railroads) or the incident in Lac Mégantic (as others would have us use) – which would provide no real insights into what a reasonable worst case spill would look like in Washington.

34 Indeed, imposing a reporting requirement based on an incident of the magnitude of that in Lac Mégantic – or an even worse spill – would be particularly problematic in this respect. The railroad involved in the Quebec incident was unable to pay for the damage and declared bankruptcy, forcing the provincial and Canadian federal governments to fund the cleanup and damage reparations.[37] Assuming a railroad company in Washington similarly did not have the financial resources to cover the billions of dollars in damages from such an incident, we expect that the company would report nothing more than a single statement to that effect. The Commission would then be left with virtually no information about oil by rail operations in this state or the extent of the companies' ability to pay oil spill cleanup costs. We decline to take that path. Rather, we adopt a rule that gives full effect to the intent and purpose of RCW 81.04.560, and which will provide the Commission and the public with more useful information.

35 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102 at WSR # 15-22-105.

36 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-62 should be amended and adopted to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

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[37] Final Regulatory Impact Analysis, Docket No. PHMSA-2012-0082, at 23.

ORDER

37 **THE COMMISSION ORDERS:**

38 The Commission amends WAC 480-62-130 and WAC 480-62-300, and adopts WAC 480-62-260 and WAC 480-62-270 to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).

39 This Order and the rule set out below, after being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, February 9, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 2, amended 2, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Appendix A
(Comment Summary Matrix)

Appendix B
(WAC 480-62 – RULES)