



Railroad Employee Safety Consolidation Report to the Joint Transportation Committee

November 10, 2016

Section 102 of 2ESHB 1299 included the following budget proviso:

The utilities and transportation commission shall coordinate a state agency work group in 2016 that will identify issues, laws, and regulations relevant to consolidating rail employee safety and regulatory functions in the utilities and transportation commission.... The report must address: An inventory of state rail employee safety regulatory authority, including rail employee safety laws and regulations; issues pertaining to state rail safety inspectors, including enforcement authority, staffing, training, and retention; and information relating to the enhancement of rail employee safety, yard conditions, lighting, and appliance maintenance.

Laws of 2015, Chapter 10, section 102.

The Final Report will provide an overview of issues, laws, and regulations relevant to the enhancement of rail employee safety, and staffing, training and retention of state rail safety inspectors.

- Part 1: overview of listed state agency authority and role, as it pertains to railroad regulations
- Part 2: addresses state and federal jurisdiction over rail employee safety
- Part 3: addresses authority, training, staffing, retention, and related issues for state rail safety inspectors
- Part 4: additional information relating to the enhancement of rail employee safety
- Appendices: a number of reference documents used in the preparation of the report and additional resources related to railroad employee safety.

Role in railroad safety:

State Agencies:

- Utilities and Transportation Commission (UTC)
- Washington State Department of Transportation (WSDOT)
- Department of Labor and Industries (L&I)
- Washington Military Department's Emergency Management Division (EMD)

Federal Agencies:

- Federal Railroad Administration (FRA)
- U.S. Department of Labor's Occupational Safety and Health Administration (OSHA)
- Surface Transportation Board (STB)
- Pipeline and Hazardous Materials Safety Administration (PHMSA)
- National Transportation Safety Board (NTSB)
- Federal Transit Administration (FTA)
- Department of Homeland Security (DHS)
- U.S. Coast Guard (USCG)
- U.S. Army Corps of Engineers (ACE)

UTC Railroad Safety Program

- Federal partnership
- Grade crossing inspections
- Investigations
- Complaint resolution
- Employee safety
- Crossing safety improvements
- Public education

WSDOT Rail Division

- State Rail Plan
- Freight Mobility Plan
- Amtrak Cascades and intercity passenger rail
- Local, state, and national program coordination
- Federal highway dedication funding

L&I

- Washington Industrial Safety and Health Act
 - Enforcement of safety and health standards
 - Workplace inspections, workers' compensation
- Regulation of walkways and clearances in private rail yards

EMD

- Manages State Emergency Operations Center at Camp Murray
- Notification and coordination of state response during emergencies and disasters

Federal Railroad Administration (FRA)

Federal Railroad Safety Act of 1970 (49 U.S.C. Chapters 201-213):

- Granted the Federal Railroad Administration authority over **“every area of railroad safety”** (49 U.S.C. 20103)
- State requirement related to railroad safety are generally preempted when the Secretary has issued a rule or order **“covering the subject matter of the State requirement”** (49 U.S.C. 20106)

State Safety Participation Program (SSPP)

- The SSPP authorizes state personnel to be trained, certified, and act to enforce FRA regulations.
- The UTC's participation in this partnership allows it to act on regulatory safety authority over areas of railroad operations that are largely preempted by the federal government.

FRA rules explain the principles of the program, discuss joint planning of inspection activities, and establish qualification requirements for state inspectors in the federal disciplines.

Rail Safety Improvement Act (RSIA)

- Directed the FRA to promulgate additional rail safety regulations and guidance in areas including:
 - Positive Train Control (PTC) systems
 - Hours of Service for railroad contractors and subcontractors
 - Increased ordinary maximum and aggravated civil penalties per violation.
 - Report to Congress on track inspection intervals
 - Report to Congress on use of electronic devices by safety-related railroad employees

Surface Transportation Board (STB)

- Successor agency to the Interstate Commerce Commission
- Jurisdiction over railroad rate and service issues, mergers, sales, and construction and abandonment of rail lines

Pipeline and Hazardous Materials Safety Administration (PHMSA)

- Ensuring safe movement of hazardous materials
- Tracking data on hazardous materials
- Permitting, inspecting and enforcing safety of hazardous materials

National Transportation Safety Board (NTSB)

- Investigates major accidents involving railroad, highway, marine, and pipeline.
- No regulatory authority

Railroad Employee Safety: Federal

Occupational Safety and Health Act:

- Establishes standards and regulates the occupational safety and health of all employees
- Standards and regulations do not apply when another federal statute or regulation applies to an employee's working conditions.

Memorandum of Agreement between OSHA and the FRA:

- OSHA's regulations relating to substantive safety and health requirements apply to railroad employees
- Safety and health issues specifically relating to railroad operations are regulated and enforced by the FRA.

49.17 RCW (Washington Industrial Safety and Health Act):

- L&I regulates and enforces occupational health and safety matters through its Division of Occupational Safety and Health (DOSH)

RCW 81.04.540:

- The UTC has regulatory jurisdiction over the general safety practices for railroad equipment, facilities, rolling stock, and operations in the state, for the purpose of participating in the enforcement of federal railroad safety regulations where Washington state law, rules, regulations, orders and standards are preempted.

Railroad Employee Safety: State

L&I Authority	UTC Authority
At fixed sites	On rolling stock
Contractors	Switches in rail yards
General sanitation, ventilation, noise exposure	Medical, first aid, and fire protection regulations for mobile facilities
Chronic chemical / hazardous material exposure	Trackside walkways and railroad yard inspections
Inspection and handling of compressed gas	Personal protective equipment associated with railroad operations
Medical, first aid, and fire protection for static facilities	
Machine and electrical standards	
Walkways within boundaries of a private rail yard	

Rail Inspector Training and Retention

State Partnership:

- Guidance Materials for Inspections
- On-the-Job Training
- Accident Investigation Participating Agreement
- Equipment Loan Agreement

Minimum Qualifications for Federal and State Inspectors:

- Track
- Motive Power & Equipment
- Operating Practices
- Hazardous Materials
- Signals and Train Control
- Grade Crossing Signal System Inspector

Challenges for Retention and Recruitment

- State inspector salaries are lower than railroad wages and FRA salaries

- Factors contributing to rail yard injuries
- Potential risk reduction strategies
- 2014 Report to the Legislature on Rail Crew Passenger Transportation
- UTC Policy on Walkways
- WSDOT Rail Plan
- UTC-L&I MOU
- Roadway worker safety and operating rules and statutes

Final Report due to JTC on Dec. 31, 2016

Questions?

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