

Chapter 468-550 WAC

SAFETY OVERSIGHT OF RAIL FIXED GUIDEWAY SYSTEMS RULES

WAC

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WAC 468-550-010 Purpose. This chapter is adopted to comply with 49 C.F.R. Part 674 and RCW 81.104.115, which requires the state of Washington to oversee the agency safety program of rail fixed guideway public transportation systems (RFGPTS) as defined in 49 C.F.R. Part 674.7. These rules prescribe the safety criteria to be met by RFGPTS and are intended to improve the safety of RFGPTS in Washington state. 49 C.F.R. Part 674.11c and Part 674.13a require the establishment of a state safety oversight agency (SSOA) in accordance with the requirements of 49 U.S.C. 5329c and 5329e(3)c. The Washington state department of transportation was designated in 1997 by Governor Gary Locke as the SSOA for the state of Washington. WSDOT's designation and authority as the SSOA is codified in RCW 81.104.115 and more recently in chapter 33, Laws of 2016 (Senate Bill 6358).

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-010, filed 6/11/18, effective 6/11/18. Statutory Authority: RCW 81.104.115. WSR 08-15-078, § 468-550-010, filed 7/15/08, effective 8/15/08. Statutory Authority: RCW 43.06.120. WSR 98-19-052, § 468-550-010, filed 9/15/98, effective 10/16/98.]

WAC 468-550-015 Effective date. These rules are necessary to comply with C.F.R. Part 674 and take effect upon filing with the code reviser for emergency rule making per the requirements outlined in RCW 34.05.350.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-015, filed 6/11/18, effective 6/11/18.]

WAC 468-550-020 Applicability. These rules are applicable to all Washington state entities, public or private, which own, operate, or maintain RFGPTS as defined in 49 C.F.R. Part 674.7.

(6/11/18)

These rules apply to all owners of rail fixed guideway public transportation systems, as defined by 49 C.F.R. Part 674, which are required by RCW 81.112.180, 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, 81.104.015 to comply with the requirements of the Washington state department of transportation for the development and implementation of an agency safety program plan.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-020, filed 6/11/18, effective 6/11/18. Statutory Authority: RCW 81.104.115. WSR 08-15-078, § 468-550-020, filed 7/15/08, effective 8/15/08. Statutory Authority: RCW 43.06.120. WSR 98-19-052, § 468-550-020, filed 9/15/98, effective 10/16/98.]

WAC 468-550-030 Definitions. For the purposes of this chapter, the following definitions of terms shall apply unless the context clearly indicates otherwise:

(1) Accident means an event that involves any of the following: A report of a serious injury to a person; a collision involving a rail transit vehicle; a runaway train; an evacuation for life safety reasons; or any derailment of a rail transit vehicle, at any location, at any time, whatever the cause.

(2) Accountable executive means a single, identifiable person who has ultimate responsibility for carrying out the safety management system of a public transportation agency; responsibility for carrying out the agency's transit asset management plan; and control or direction over the human and capital resources needed to develop and maintain both the agency's public transportation agency safety plan in accordance with 49 U.S.C. 5329(d) and the agency's transit asset management plan in accordance with 49 U.S.C. 5326.

(3) Agency means any entity that provides rail fixed guideway public transportation services.

(4) Agency safety plan is a document developed and implemented for each rail fixed guideway system, which describes its safety policies, objectives, responsibilities, and procedures. The requirements for this plan are established by the Federal Transit Administration in C.F.R. 49 Part 674 and further by the Washington state rail safety oversight program standard.

(5) APTA guidelines means the American Public Transit Association's *Manual for the Development of Rail Transit System Safety Program Plans*.

(6) Collision means a vehicle/vessel accident in which there is an impact of a transit vehicle/vessel with:

- Another transit vehicle;
- A nontransit vehicle;
- A fixed object;
- A person(s) (suicide/attempted suicide included);
- An animal;
- A rail vehicle;
- A vessel;
- A dock.

(7) Contractor means an entity that performs tasks required by this chapter on behalf of the department or a RFGPTS.

(8) Department means the Washington state department of transportation, which has been designated as the state safety oversight agency.

(9) Emergency means a situation which is life-threatening to passengers, employees, or others or which causes damage to any rail fixed guideway vehicle or facility or results in a significant loss of services which severely affects the ability of the system to fulfill its mission.

(10) Evacuation (reportable) is a condition that occurs when persons depart from transit vehicles or facilities for life safety reasons, including self-evacuations for life safety reasons. Evacuations to a location that may put passengers or patrons in imminent danger (such as controlled rail right of way) must also be reported.

(11) Fatality means a death or suicide confirmed within thirty days of a reportable event. Excludes deaths in or on transit property that are a result of illness or other natural causes.

(12) FTA means the Federal Transit Administration, or its successors, an agency within the U.S. Department of Transportation.

(13) Hazardous condition means a set of circumstances that if not identified and corrected has or will result in personal injury or property damage. It includes unacceptable hazardous conditions.

(14) Incident means an event that involves any of the following: A personal injury that is not a serious injury; one or more injuries requiring medical transport; or damage to facilities, equipment, rolling stock, or infrastructure that disrupts the operations of a rail transit agency.

(15) Incident reporting thresholds are criteria established by Federal Transit Administration in C.F.R. 49 Part 674 and further by the Washington state rail safety oversight program standard for determining which accidents/incidents require investigation.

(16) Investigation means a procedure that the department or a RFGPTS utilizes to determine the cause of a reportable accident, hazardous condition, or security breach.

(17) Major system enhancement means any modification to an existing RFGPTS that will significantly impact the operations and maintenance of the system, including opening new stations, system wide modification or replacement of equipment, expanded operations and maintenance facilities, or significant increases to system capacity.

(18) Medical attention means emergency care at a state-licensed general hospital, critical access hospital, or health clinic, or by a religious practitioner.

(19) Procedure means an established and documented method to perform a task.

(20) Rail fixed guideway public transportation system or "RFGPTS" means any fixed guideway system that uses rail, is operated for public transportation, is within the jurisdiction of a state, and is not regulated by the Federal Railroad Administration, or its successor. Rail fixed guideway public transportation system (or "RFGPTS") also means any such projects in engineering or construction phases. Rail fixed guideway public transportation systems include, but are not

limited to, rapid rail, heavy rail, light rail, monorail, trolley, inclined plane, funicular, and automated guideway.

(21) Rail transit agency (RTA) means any city, town, county, transportation authority, public transportation benefit area, regional transit authority, or other agency that owns a RFGPTS and bears ultimate accountability for it.

(22) Revenue line segment means that portion of a fixed guideway system upon, under, or through which a RFGPTS provides service available to the public. It includes stations used by the system's passengers to enter or leave the RFGPTS's conveyance.

(23) Safety means freedom from danger.

(24) Security means freedom from intentional danger.

(25) Security breach means an unforeseen event or occurrence that endangers life or property and may result in the loss of services or system equipment.

(26) System expansion means any modification to an existing RFGPTS that will increase the distance over which trains can travel in passenger service, including line extensions or new lines.

(27) Washington state rail safety oversight program is the program administered by the Washington state department of transportation to ensure compliance by rail fixed guideway public transportation systems with the Washington state rail safety oversight program standard.

(28) Washington state rail safety oversight program standard is a document developed and adopted by the Washington state department of transportation that describes the policies, objectives, responsibilities, and procedures used to provide safety and security oversight of rail fixed guideway systems. This document is a requirement established by the Federal Transit Administration in C.F.R. 49 Part 674.

(29) Unacceptable hazardous condition means a hazardous condition classified by the rail transit agency as being unacceptable based on a hazardous resolution matrix or other evaluation methodology approved by the department.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-030, filed 6/11/18, effective 6/11/18. Statutory Authority: RCW 81.104.115. WSR 08-15-078, § 468-550-030, filed 7/15/08, effective 8/15/08. Statutory Authority: RCW 81.104.115(5). WSR 02-13-004, § 468-550-030, filed 6/6/02, effective 7/7/02. Statutory Authority: 1999 c 202 § 7. WSR 99-18-059 (Order 193), § 468-550-030, filed 8/30/99, effective 9/30/99. Statutory Authority: RCW 43.06.120. WSR 98-19-052, § 468-550-030, filed 9/15/98, effective 10/16/98.]

WAC 468-550-040 Requirements for agency safety plans.

(1) Rail transit agencies must establish an agency safety plan that complies with the requirements set forth in the Washington state rail safety oversight program standard, which conforms to current federal regulations for agency safety plans. These requirements include the establishment of an agency safety policy, a safety and risk management program, a safety assurance program, and a safety promotion program.

(2) Agency safety plans must establish the agency procedures for the review and revision of the plan. The filing, submittal, review, and approval of agency safety plans must comply with the standard set forth in WAC 468-550-050.

(3) As described in WAC 468-550-060, agency safety plans are subject to reviews and audits from the Washington state rail safety oversight program and the Federal Transit Administration.

(4) Rail transit agencies must conduct internal audits of agency safety plans per the requirements of WAC 468-550-060.

(5) Agency safety plans must establish procedures for the notification, investigation, and reporting of accidents, incidents, and hazards in conformance with the requirements of WAC 468-550-070.

(6) Agency safety plan policy statements must be approved and signed by the agency's accountable executive. The policy statement must assign responsibility for carrying out the plan to the designated agency accountable executive.

(7) Each RFGPTS shall implement and comply with the provisions of its plans and any revisions thereto. Further, should the RFGPTS experience a change in ownership or a change in operating or maintenance providers, the RFGPTS shall require continued compliance with the RFGPTS's established plans and shall notify the department of any change of ownership or operating or maintenance providers within thirty days of the effective date of transfer or contract.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-040, filed 6/11/18, effective 6/11/18. Statutory Authority: RCW 81.104.115. WSR 08-15-078, § 468-550-040, filed 7/15/08, effective 8/15/08. Statutory Authority: RCW 81.104.115(5). WSR 02-13-004, § 468-550-040, filed 6/6/02, effective 7/7/02. Statutory Authority: 1999 c 202 § 7. WSR 99-18-059 (Order 193), § 468-550-040, filed 8/30/99, effective 9/30/99. Statutory Authority: RCW 43.06.120. WSR 98-19-052, § 468-550-040, filed 9/15/98, effective 10/16/98.]

WAC 468-550-050 Procedures for the submittal, review, approval, and filing of agency safety plans. (1) Agency safety plans must be submitted within three months prior to operations of a new RFGPTS, a system expansion, or a major system enhancement to an existing RFGPTS.

(2) Full compliance and approval of agency safety plans must be obtained in writing from WSDOT prior to commencing RFGPTS operations. The department and the RTA must accelerate review and revision timelines as necessary to ensure agency safety plan approval prior to the RFGPTS start of service date.

(3) The department must review and evaluate plans according to criteria set forth in the Washington state rail safety oversight program standard.

(4) Each calendar year, as part of its annual safety program report submittal, the transit agency must provide the department with documentation of its annual review of the agency's safety plan.

(5) The department shall provide written approval of the RFGPTS's agency safety plan or provide written comments to the RFGPTS specifying required changes. The RFGPTS shall revise its plan to incorporate the department's review comments, if any, within sixty days after receipt thereof, and resubmit its revised plan for review. After resolving issues arising in the review process, the department shall notify the RFGPTS of its concurrence with the plans. The plans and the department's concurrence shall be maintained by the department in a permanent file.

(6) The RFGPTS shall not transmit any security sensitive portions of its plans, as defined by 49 C.F.R. Part 1520. The RFGPTS shall notify the department of the location and availability of any security sensitive information.

(7) Each RFGPTS may develop procedures to implement this subsection. The Washington state rail safety over-

sight program standard may require these procedures to be included, summarized, or cited in the agency safety plan.

(8) Failure to comply with the requirements established in WAC 468-550-040, 468-550-050, 468-550-060, 468-550-070, and the Washington state rail safety oversight program standard may result in financial or other penalties. Financial or other penalties will be determined in accordance with WAC 468-550-080.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-050, filed 6/11/18, effective 6/11/18. Statutory Authority: RCW 81.104.115. WSR 08-15-078, § 468-550-050, filed 7/15/08, effective 8/15/08. Statutory Authority: RCW 43.06.120. WSR 98-19-052, § 468-550-050, filed 9/15/98, effective 10/16/98.]

WAC 468-550-060 Annual internal safety audits and reports. (1) Each RFGPTS shall perform scheduled internal safety audits to evaluate compliance with the Washington state rail safety oversight program standard, to identify hazardous and risk conditions, and to verify that it is fully implementing its safety program as described in its plans and procedures. The RFGPTS shall include its internal safety audit schedule for the following year in the annual report as required by WAC 468-550-070(5). These audits shall determine the level at which the agency has implemented the agency safety plan. Audits may include, but are not limited to, the observation of employees performing system operations and maintenance activities, employee rules compliance checks, the sampling and inspection of selected system components, interviews, and records reviews.

(2) The RFGPTS shall select a qualified person(s) or contractor to perform its internal audits and shall notify the department not later than ten days prior to performing the internal audits. The notification shall include date(s) of audit, what is to be audited, and the qualifications of those selected to perform the audit, such qualifications are subject to departmental concurrence and should describe what relevant experience and/or training qualifies the auditor(s) to conduct these audits. The department may assess the effectiveness of each RFGPTS audit program; however, any departmental review or concurrence shall not substitute for the RFGPTS's own safety inspection audit programs, nor relieve the RFGPTS from its responsibility for the safety of its system.

(3) Where the agency is not fully implementing its agency safety plan, or is not implementing its safety program in accordance with the agency safety plan, the agency must clearly identify deficiencies in its audit report, per the requirements of Washington state rail safety oversight program standard.

(4) Each RFGPTS shall prepare, maintain, and make available for departmental review, records that document the results of all tests, inspections, and audits conducted by the RFGPTS or its contractor in compliance with the plans. These records shall be maintained by the RFGPTS for a minimum of three years. Failure to provide the department with audit reports and associated records and documentation may result in financial or other penalties as described in WAC 468-550-080.

(5) Internal safety audits shall be documented in an annual report that includes the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken

as a result of the audit activity and the results of each audit in terms of the adequacy and effectiveness of the plan. This annual report for the internal safety audits performed during the preceding year shall be included with the annual safety report specified in WAC 468-550-100.

(6) The department may conduct an independent investigation of the agency's audit program or of specific deficiencies and findings identified by the RFGPTS internal safety audits.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-060, filed 6/11/18, effective 6/11/18. Statutory Authority: RCW 81.104.115. WSR 08-15-078, § 468-550-060, filed 7/15/08, effective 8/15/08. Statutory Authority: RCW 81.104.115(5). WSR 02-13-004, § 468-550-060, filed 6/6/02, effective 7/7/02. Statutory Authority: 1999 c 202 § 7. WSR 99-18-059 (Order 193), § 468-550-060, filed 8/30/99, effective 9/30/99. Statutory Authority: RCW 43.06.120. WSR 98-19-052, § 468-550-060, filed 9/15/98, effective 10/16/98.]

WAC 468-550-061 Triennial safety program audits conducted by the department. (1) The department shall audit each RFGPTS's compliance with the agency safety plan at least once every three years in accordance with the requirements of the Washington state rail safety oversight program standard. The RFGPTS shall be given written notification of the audit scope and schedule at least thirty days in advance of the department's audit. Each audit shall be conducted in accordance with an audit checklist. Documentation which may be requested by the department as part of the audit includes, but is not limited to:

- (a) The RFGPTS operating rule book, bulletins, and procedures;
- (b) Operations and maintenance logs and records;
- (c) The RFGPTS maintenance manuals and procedures for vehicles, facilities, track and signals;
- (d) The RFGPTS procedures for identifying, documenting, evaluating, and correcting hazards;
- (e) The RFGPTS system design criteria and project engineering procedures for system modifications;
- (f) The RFGPTS annual internal audit reports for the previous three years;
- (g) The RFGPTS corrective action plans for reportable accidents and unacceptable hazardous conditions reported to the department during the previous three years;
- (h) APTA audit reports;
- (i) National Transportation Safety Board accident investigation reports, Federal Transit Agency investigation or audit reports, or peer review reports, if any, prepared during the previous three years.

(2) Upon the department's completion of the on-site portion of the triennial safety program audit, the audit team leader shall issue a final audit report following the process established in the Washington state rail safety oversight program standard. The final audit report shall contain the department audit team's findings and recommendations. The final audit report shall also include the department audit team's evaluation of the RFGPTS agency safety plan's compliance with the Washington state rail safety oversight program standard and a determination of whether it should be updated. The RFGPTS must address all findings and recommendations identified in the final report by following the requirements set forth in the Washington state rail safety oversight program standard.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-061, filed 6/11/18, effective 6/11/18.]

WAC 468-550-062 Additional external audits conducted on RFGPTS safety programs and plans. (1) The RFGPTS must notify the department of the schedule and scope for all external audits and investigations which will include the review of the agency safety plan, safety programs, safety critical functions, safety certification, transit asset management plan or drug and alcohol program. These include, but are not limited to, audits and investigations to be conducted by the Federal Transit Administration, USDOT, DHS, NTSB, or OSHA. The RFGPTS must notify the department of the schedule and scope at least one week prior to the start of audit activities.

(2) The Federal Transit Administration conducts an audit of WSDOT's state safety oversight program once every three years. The RFGPTS will participate in these audits and provide relevant safety program documentation and records if requested by the Federal Transportation Administration or the department.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-062, filed 6/11/18, effective 6/11/18.]

WAC 468-550-063 Audits conducted of department's state safety oversight program. The RFGPTS will provide documentation if requested by auditors or by department personnel in support of external state or federal audits of the department's state safety oversight program. These include, but are not limited to, triennial reviews conducted by the FTA Transit Safety Oversight office of the department's SSO program compliance.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-063, filed 6/11/18, effective 6/11/18.]

WAC 468-550-070 Notifying of, investigating, and reporting accidents and unacceptable hazardous conditions. (1) Each RFGPTS shall notify the department per the requirements set forth in the Washington state rail safety oversight program standard within two hours of the occurrence of any reportable accident.

(2) Each RFGPTS shall notify the Federal Transit Administration (FTA) of reportable hazards, incidents, and accidents per the requirements of 49 C.F.R. 674.33.

(3) Each RFGPTS shall notify the department per the requirements set forth in the Washington state rail safety oversight program standard within two hours of the discovery of any unacceptable hazardous condition.

(4) Each RFGPTS shall notify the department of all other reportable hazards or incidents within the reporting timelines set forth in the Washington state rail safety oversight program standard.

(5) Each RFGPTS shall investigate all reportable accidents and unacceptable hazardous conditions. The RFGPTS may use its own staff or a contractor to conduct its investigation and shall designate a staff person to be responsible for submitting written investigation reports and findings to the department, on a department form, within forty-five calendar days after the reportable accident or unacceptable hazardous condition was discovered. This report shall identify the causal factors contributing to the occurrence and contain a

corrective action plan with an implementation schedule to prevent a recurrence of the accident, or to mitigate the unacceptable hazardous condition.

(a) In the event that the RFGPTS does not have all of the data and analysis necessary to complete a final report, the RFGPTS must submit a draft within forty-five days that documents progress to date.

(b) Under no circumstance may the final report be submitted more than four months from the date of the incident.

(c) The department shall review the RFGPTS final investigation report, corrective action plan, and accompanying implementation schedule to ensure that it meets the goal of preventing and mitigating a recurrence of the reportable accident or unacceptable hazardous condition.

(d) In the event that the department does not concur with the findings of the RFGPTS investigation, the corrective action plan, or the implementation schedule, the department shall take the following actions:

(i) Within forty-five calendar days of receipt of the investigation report, confer with the RFGPTS about its preliminary review findings and explain what needs to be changed;

(ii) If the RFGPTS agrees with the department's recommendations, then the RFGPTS shall amend its report to the department in writing within ten calendar days. This then follows the normal WSDOT approval process;

(iii) If the RFGPTS does not agree with the department's recommendations, then it must submit its concerns and issues in writing within ten days to the department. The department shall submit the plan to the FTA transit safety oversight office for their review. The FTA shall make the final determination.

(6) The department has authority to perform separate, independent investigations of reportable accidents or unacceptable hazardous conditions at its own discretion.

(a) WSDOT at its discretion may choose to conduct an independent investigation of any accident meeting the thresholds specified in WSDOT SSO program standard utilizing its own personnel or an authorized contractor.

(b) WSDOT may initiate its own investigation at any time prior to adopting the RTA's accident investigation report. WSDOT will inform the RTA of its intention to conduct an independent investigation in advance of beginning investigation activities on RTA facilities and infrastructure or involving interviews with RTA personnel. WSDOT will advise the RTA of the personnel who will be conducting the independent investigation, and provide a preliminary schedule of the investigation process prior to the start of investigation activities.

(c) All WSDOT authorized accident investigation personnel, including consultants hired for the purpose of conducting an accident investigation, are granted authority under the state safety oversight program to do all things reasonable and necessary to conduct their investigation including, but not limited to, entering RTA facilities, accident scenes, and other relevant locations; examining the property, vehicles, and records of the RTA; interviewing RTA personnel; and evaluating records, materials, data, analysis, and other information which is pertinent to the investigation. It is expected that the RTA will provide the WSDOT investigation team the

resources and information necessary to conduct the investigation in an effective and efficient fashion.

(7) All reportable accidents and hazards must be included in an annual safety program summary report to the department per WAC 468-550-100.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-070, filed 6/11/18, effective 6/11/18. Statutory Authority: RCW 81.104.115. WSR 08-15-078, § 468-550-070, filed 7/15/08, effective 8/15/08. Statutory Authority: RCW 81.104.115(5). WSR 02-13-004, § 468-550-070, filed 6/6/02, effective 7/7/02. Statutory Authority: 1999 c 202 § 7. WSR 99-18-059 (Order 193), § 468-550-070, filed 8/30/99, effective 9/30/99. Statutory Authority: RCW 43.06.120. WSR 98-19-052, § 468-550-070, filed 9/15/98, effective 10/16/98.]

WAC 468-550-080 Notifying of and applying financial penalties. (1) If any RFGPTS fails to comply with any of the requirements or due dates specified in the Washington state rail safety oversight program standard, the department shall notify the RFGPTS in writing of such a violation. These violations will be designated by the department to be one or more findings of noncompliance.

(2) The RFGPTS will have fifteen calendar days to respond to this notification with:

(a) Documentation and records of corrective actions taken, for department review, that fully address the violations and findings of noncompliance; or

(b) Justification for its failure to comply or to provide the required records. The justification must include records of all supporting documentation, corrective actions taken, and all other mitigation plans proposed, planned or implemented with intent to address the violation.

(3) Within thirty days of receipt of the RFGPTS response, the department will review and issue one of the following determinations:

(a) Determination of compliance - Where the department determines that violations have been fully addressed and non-compliance findings can be closed.

(b) Determination of noncompliance with exception - Where the department determines that the RFGPTS has taken action to address violations and has a corrective action plan, acceptable in scope and schedule, in place to come into compliance.

(c) The department may establish a new deadline by which the corrective action plan addressing violations must be fully implemented. Failure by the RFGPTS to meet this new deadline may result in the issuance of a determination of noncompliance.

(d) Determination of noncompliance - Where the department determines that violations have not been adequately addressed by the RFGPTS and there is an absence of acceptable corrective actions taken and/or of acceptable scope and schedule of corrective actions to be taken.

(4) Where, the department issues a determination of non-compliance, the department may issue a second and final notification in writing that states a new deadline by which a financial penalty will be imposed if noncompliance findings cannot be addressed. The amount of the financial penalty will be stated in the written notification. If more than one finding of noncompliance exists, more than one financial penalty may be imposed. Financial penalties will be as follows:

(a) The department may issue a financial penalty of ten thousand dollars for each determination of noncompliance.

(b) Thirty days following the issuance of a financial penalty, the department will determine if the status of the violation remains in noncompliance status. This determination will be based on a review of all additional submittals and actions taken by the RFGPTS. If the status has not been changed to determination of compliance or determination of noncompliance with exception, the department may impose an additional financial penalty of ten thousand dollars per finding of noncompliance.

(c) Following each subsequent thirty-day period, the department will review all additional submittals and actions and impose an additional financial penalty of ten thousand dollars until the determination is reduced to either a finding of noncompliance with exception or a finding of compliance.

(d) If a RFGPTS fails to remit the full amount of the imposed financial penalty within sixty days of when due, the department may seek judicial enforcement to recover full payment. Venue for any action hereunder shall be Thurston County.

(5) Additionally, following any issuance by the department of a determination of noncompliance or of inadequate progress in addressing it, the department may require a meeting with the director responsible for the RFGPTS's operations and maintenance, or with the agency's chief executive, to discuss the RFGPTS's progress in completing the documentation and the potential consequences of delay.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-080, filed 6/11/18, effective 6/11/18. Statutory Authority: RCW 81.104.115. WSR 08-15-078, § 468-550-080, filed 7/15/08, effective 8/15/08. Statutory Authority: RCW 81.104.115(5). WSR 02-13-004, § 468-550-080, filed 6/6/02, effective 7/7/02. Statutory Authority: 1999 c 202 § 7. WSR 99-18-059 (Order 193), § 468-550-080, filed 8/30/99, effective 9/30/99.]

WAC 468-550-090 Suspension of service, modification of service, or the removal of equipment due to failure to mitigate to hazardous conditions. When a known unacceptable hazardous condition is not mitigated to an acceptable level by RFGPTS owners or operators, the department may require the suspension or modification of service or the suspended use or removal of equipment. The department may impose sanctions per WAC 468-550-080 upon owners or operators of RFGPTS for failure to meet deadlines of submissions of required reports and audits.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-090, filed 6/11/18, effective 6/11/18. Statutory Authority: RCW 81.104.115. WSR 08-15-078, § 468-550-090, filed 7/15/08, effective 8/15/08.]

WAC 468-550-100 Safety program annual report. (1) Per the requirements of the Washington state rail safety oversight program standard, the RFGPTS will prepare and submit to the department a safety program annual report which summarizes the agency's safety program activities during the most recent calendar year, including a summary of accidents, incidents, hazards, and internal safety program audits.

(2) The annual safety program annual report must be submitted to the department on or before February 15th of each year.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-100, filed 6/11/18, effective 6/11/18.]

WAC 468-550-110 Special provisions for rail fixed guideway public transportation systems crossing state lines and operating in both Washington and a bordering state. (1) When a RFGPTS crosses state lines and is operating in Washington and a bordering state, the department will comply with the requirements set forth in 49 C.F.R. Part 674.15 for the designation of an oversight agency for a multistate system. The department will coordinate with the neighboring state SSOA and either ensure that both Washington's SSOA and the bordering state's SSOA are implementing uniform safety standards and requirements upon the RFGPTS (674.15a) or that a single SSOA is designated as the SSOA (674.15b).

(2) Where a bordering state agency is serving as the single entity SSOA, the bordering state's program standard and other safety standards and procedures will be used for oversight of the RFGPTS, unless otherwise stated through agreement or law. The Washington state rail safety oversight program standard will continue to apply to all other RFGPTS within Washington not subject to the special provisions of this section.

(3) An agreement will be established with the bordering state to set coordination of oversight duties and reporting for the RFGPTS subject to the program standard of a bordering state. The agreement must address the allocation of costs between the two states.

[Statutory Authority: RCW 81.104.115, 49 U.S.C. § 5329 and 49 C.F.R. Part 674. WSR 18-13-031, § 468-550-110, filed 6/11/18, effective 6/11/18.]