



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

David K. Gebert, P.E., Director of Public Works
Town of Steilacoom
1030 Roe Street
Steilacoom, WA 98388-4010

January 3, 2001

Dear Mr. Gebert:

The Washington Utilities and Transportation Commission is in receipt of your comments regarding the proposed revisions to Chapter 480-62 WAC. Thank you for the time and effort you spent to review the various rule drafts, and for the suggested revisions that you sent to us. Your comments coupled with all other comments that we received have been instrumental in developing and analyzing the proposed rules in a thorough manner that took the concerns of interested parties into account.

Throughout the review process, every attempt was made to achieve consensus among staff and stakeholders. For the most part this goal was realized, however, there are areas where staff did not incorporate stakeholder comments. It is the intention of this letter to explain to the City of Steilacoom the reasons for not including the suggested revisions to WAC 480-62-235, Flaggers, and how staff intends to incorporate the City's suggested revisions to WAC 480-62-155, Evidence of what constitutes an "essentially local safety hazard."

WAC 480-62-155(3), Evidence of what constitutes an "essentially local safety hazard."

Your comments regarding WAC 480-62-155(3) suggest that "human-made" conditions be considered by the Commission, in addition to "natural" conditions, in determining local safety hazards necessary to reduce train speed limits lower than those authorized by federal law. Staff agrees that man-made conditions can be considered; however, there is a qualitative difference between the two types of conditions. Man-made conditions can often be changed to eliminate dangers, while natural conditions often cannot be changed. Also, local discretionary actions, such as placing certain types of structures near tracks are not allowed to dictate national policy, while natural conditions predate track construction. Despite those differences, the rule does allow consideration of man-made structures in the section that provides for analysis of potential for accidents.

Staff will, however, delete the word "natural" from WAC 480-62-155(3)(b), as it is probably too limiting to suggest that only natural (e.g. geological) conditions would meet the definition of an

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“essentially local safety hazard” under the State regulation savings clause of the Federal Railroad Safety Act, 49 U.S.C. § 20106.

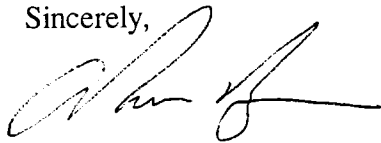
WAC 480-62-235, Flaggers.

The City has filed comments regarding this section, requesting that the sentence, “During breaks, another qualified flagger must take over the flagging duties” be added at the end of subsection (8)(e). The flagger rule is proposed for adoption in response to a law enacted during the last legislative session requiring the Commission, the state Department of Transportation, and Department of Labor & Industries to adopt consistent rules that provide added protection for flaggers. The purpose of WAC 480-62-235 is to require methods for ensuring the protection of flaggers when they are used, and is not intended to suggest circumstances when flaggers should be used. However, WAC 480-62-230, “Traffic control devices” states that “flaggers be provided where necessary to adequately protect the public and railroad employees,” thus implicitly stating that when flaggers are appropriate for traffic control, they should be relieved by other qualified flaggers when on breaks.

I would like to thank you once again for your review of the proposed rules and the comments that you have submitted. The Commission will consider the proposed rules for adoption at its regular open meeting, on January 11, 2001 at 9:30 at the Commission’s headquarters, located at:
1300 S. Evergreen Park Drive SW
Olympia, WA 98501

If you would like to further discuss any of the comments that you have submitted or have any questions regarding the status of the current railroad operations rulemaking, please contact me at (360) 664-1345.

Sincerely,



Ahmer Nizam
Washington Utilities and Transportation Commission

Attachment