



TR-981102

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

FAX TRANSMITTAL

January 17, 2001

Telefax Number: (503) 222-5290

To: **Carolyn Larson**
Kilmer, Voorhees, & Laurick

From: Ahmer Nizam
Rail Section
(360) 664-1345

Number of pages (including cover sheet): 3

Comments: The attached sections contain the revisions to WAC 480-62 that resulted from the Commission open meeting on January 11, 2001. Thank you for your time and effort in this process... *And Thanks for the "catch!"*

*WDS: file per
Ahmer
RMS
r*



WAC 480-62-305 Railroad community notice requirements. This rule is not intended to cover immediate safety hazards or emergencies.

(1) At least ten days prior to taking any planned action that may have a significant impact on a community, railroad companies must notify, in writing, the governing authority of the community and the commission of the planned action.

NOTE: Maintenance practices, such as replacing broken planks if the opportunity to do so is unexpectedly presented, are not considered to be planned actions and would likely prevent safety hazards. In such situations, advance notice would not be required.

(2) Examples of actions that may have significant impact on a community include disrupting the use of a crossing for track inspection, reconstruction, maintenance, or blocking a crossing.

(3) The notice must contain a heading with the words "important notice" in prominent type and contain, at a minimum, the following:

(a) Date the notice is issued;

(b) A clear explanation of the type of planned event;

(c) Specific location of the event;

(d) An estimation of the start and completion date of the event;

(e) Any additional information that will assist the community to plan for the event;

(f) Railroad company contact person and phone number; and

(g) A statement substantially as follows: "If you have questions about the regulatory process, you may contact the Washington Utilities and Transportation Commission at: WUTC, 1300 S. Evergreen Park Dr. S.W., P.O. Box 47250, Olympia, WA 98504-7250; 1-800-562-6150 (toll-free). Also, you may contact the Federal Railroad Administration at 1-800-724-5998 (toll-free)."

(4) Whenever a highway authority plans to perform maintenance that will affect a crossing, it must notify the railroad company and local jurisdiction at least ten days before performing the maintenance.

(5) Whenever a railroad company plans to perform maintenance that involves changing the type of material used as a grade crossing surface, it must also notify the commission at least ten days prior to performing the replacement.

NEW SECTION

WAC 480-62-315 Miscellaneous reporting requirements. (1) Within thirty days of a request from the commission, every railroad company must report to the commission on the sales, transfers or abandonments of all trackage which crosses a public road. The report must contain a description of the transaction, clear identification of the track involved in the transaction, the effective date of the transaction, and the name and address of the last known owner(s) or operator(s) of the section transferred.

(2) Upon request, every railroad company and railroad company official must report to the commission the information then available to it regarding the average number of daytime through-trains, nighttime through-trains, and switching movements over specific grade crossings in its control. Reports must identify each crossing by USDOT number and road name.

(3) Upon request, every railroad company must inform the commission in writing of the names, addresses, and telephone numbers of the persons to whom to report emergencies of any nature, and problems or defects with crossing signals, passive warning devices, and crossing surfaces. The information must be current at all times.

(4) Upon request, every railroad company must provide the commission with access to or copies of track profiles. This requirement may be satisfied by allowing electronic access to track profiles.

(5) Upon request, every railroad company must provide the commission with access to or copies of its timetable. This requirement may be satisfied by allowing electronic access to the timetables.



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FAX TRANSMITTAL

January 9, 2001

Telefax Number: (206) 625-6517

To: **David Reeve**
Kroschel, Gibson, Kinerk, & Reeve

From: **Ahmer Nizam**
Rail Section
(360) 664-1345

Number of pages (including cover sheet): 4

Comments: The attached draft of WAC 480-62-155 contains the revised and additional language that was mentioned in the preceding comment response.





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WAC 480-62-155 ~~Procedure to set tTrain speeds limits.~~

(1) Scope of commission authority. The commission's authority to regulate the speed of trains is established in RCW 81.48.030 but limited by federal law. Under RCW 81.48.030, the commission has the power to "fix and regulate" the speed of trains within the limits of any city and town, other than a first class city and at grade crossings outside the limits of cities and towns. However, under section 205 of the Federal Railroad Safety Act, 49 U.S.C. §20106, states are limited to actions which are "necessary to eliminate or reduce an essentially local safety hazard." Accordingly, the commission will act to limit train speeds below those set by the United States Secretary of Transportation only where it finds that there exists such a local safety hazard and that reduction of the train speed is necessary to eliminate or reduce that hazard. Information about Title 49 U.S.C. regarding the version adopted and where to obtain it is set out in WAC 480-62-999.

(2) ~~Procedure for setting train speed limits.~~ The commission will consider whether to set train speed limits below those authorized by the United States Secretary of Transportation either upon petition or upon its own motion.

(a) Petition process.

(i) Any person, other than a railroad company, who seeks to have the commission set a train speed limit different from the federally set speed limit or modify an existing limit set by the commission must file with the commission a petition. The petition must contain the following information:

(A) Name and address of the petitioner;

(B) Specific location and length of track over which the speed limit is sought;

(C) Reasons for the speed limit;

(D) If the petitioner seeks a speed limit different from the federally set speed limit, a detailed explanation of why there exists an "essentially local safety hazard" and why that speed limit is necessary to eliminate or reduce the hazard; and

(E) Any other information the petitioner deems relevant.

(ii) A railroad company that seeks to modify an existing limit set by the Commission must file with the Commission a petition. Such petition must contain the following information:

(A) Name and address of the railroad company, and a contact person;

(B) Specific location and length of track over which the speed limit is sought;

(C) Class of track over which the speed limit is sought;

(D) Reason for the speed limit requested; and

(E) Any other information the railroad company deems relevant.

(iii) Upon receipt of ~~the~~ a petition, the commission will serve the petition on the railroad company, if the railroad company did not file the petition; the governing body of any local government within which the proposed speed limit is intended to apply; and the secretary of the department of transportation. The commission will ask for responses from those persons. The commission will set the matter for consideration at a regularly scheduled or special open meeting or, in its discretion, for a formal adjudicatory proceeding under chapter 34.05 RCW.

(b) Commission-initiated process. After investigation, the commission may also initiate a proceeding to set a train speed limit. Such a proceeding will be initiated by serving a notice on the railroad company or companies; the chief executive officer of any local government within which the proposed speed limit is intended to apply; and the secretary of the department of transportation. The notice will contain the information described in (a)(i)(A) through (E) of this subsection, the time for filing responses to the notice and the date, time, and place at which the commission will consider the matter. Such consideration may be at a regular or special open meeting or, in the commission's discretion, in a formal adjudicatory proceeding under chapter 34.05 RCW.

(c) Burden of proof.

(i) When a railroad company files a petition to modify an existing limit set by the commission to or within a federally set speed limit, including the information set forth in section (ii) (A) through (E), the railroad will be deemed to have met its burden of proof as to why the speed limit should be modified. The burden then shifts to the governing body of the local government, commission staff or other interested persons to show that there exists "an essentially local safety hazard," and that a speed limit, different from that proposed by the railroad company, is necessary to eliminate or reduce the hazard.

(ii) When a person, other than a railroad company, files a petition with the commission to set a train speed limit different from the federally set speed limit or modify an existing limit set by the commission, that person bears the burden of showing that there exists "an essentially local safety hazard," and that the speed limit is necessary to eliminate or reduce the hazard.

(iii) When the commission initiates a proceeding on its own motion to set a train speed limit different from the federally set speed limit or modify an existing limit set by the commission, the commission staff bears the burden of showing that there exists "an essentially local safety hazard," and that the speed limit is necessary to eliminate or reduce the hazard.

(3) Evidence of what constitutes an "essentially local safety hazard." In determining whether a train speed limit, lower than authorized by federal law, is necessary to eliminate or reduce an essentially local safety hazard, the commission will include in its consideration, at a minimum, the following:

(a) Whether the local situation is one that is covered by or is capable of being adequately covered by uniform national standards;

(b) Whether there exist unusual local geographic or other ~~natural~~ conditions which contribute to the existence of the hazard;

(c) The history of accidents or potential for accidents at the location; and

(d) Whether there exist alternate means to reduce or eliminate any hazard that can be included as conditions to an order setting a train speed.



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