

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Adopting	)	
	)	DOCKET NO. TR-051060
	)	
WAC 480-62-400, WAC 480-62-405,	)	GENERAL ORDER NO. R-527
WAC 480-62-410, WAC 480-62-415,	)	
and WAC 480-62-420, Relating to	)	ORDER ADOPTING RULES
Grade Crossing Protective Fund	)	PERMANENTLY
Grant Program	)	
	)	
.....	)	

1     **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action under Notice WSR # 05-24-120, filed with the Code Reviser on December 7, 2005. The Commission brings this proceeding pursuant to RCW 80.01.040(4), RCW 80.04.160, and RCW 80.40.320.

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

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

4     **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires that the Commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the identification of the Commission’s reasons for adopting the rule, a description of the differences between the version of the proposed rules published in the register and the rules as adopted (other than editing changes), a summary of the comments received regarding the proposed

rule changes, and the Commission's responses to the comments reflecting the Commission's consideration of them.

5 In this docket, to avoid unnecessary duplication, the Commission designates the discussion in this Order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda presented at the adoption hearing and at the open meetings where the Commission considered whether to begin a rulemaking and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

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

**WAC 480-62-400 Purpose.**

**WAC 480-62-405 Applications.**

**WAC 480-62-410 Funding for project categories.**

**WAC 480-62-415 Evaluation and award process.**

**WAC 480-62-420 Grant documents, timelines and fund transfers.**

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

**THEREUNDER:** The Commission filed a Preproposal Statement of Inquiry (CR-101) on August 19, 2005, at WSR # 05-17-128. The statement advised interested persons that the Commission was considering entering a rulemaking to consider processes to implement the Grade Crossing Protective Fund grant program.

8 **ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL**

**STATEMENT:** The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the Commission's list of persons requesting such information pursuant to RCW

34.05.320(3) and by sending a notice to all railroad companies operating in the state, and posting all information on the Commission's website.

- 9       **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on December 7, 2005 at WSR #05-24-120. The Commission scheduled this matter for oral comment and adoption under Notice WSR #05-24-120 at 9:30 a.m., Wednesday, January 25, 2006, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.
- 10       **COMMENTERS (WRITTEN COMMENTS):** The Commission received no written comments.
- 11       **RULEMAKING HEARING:** The rule proposal was considered for adoption, pursuant to the notice in WSR # 05-24-120, at a rulemaking hearing on Wednesday, January 25, 2006, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. The Commission received no oral comments.
- 12       **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should adopt the rules as proposed in the CR-102 at WSR # 05-24-120 with the following change:
- WAC 480-62-405(1)(b) is changed to read Trespass prevention and motorist safety projects.
- 13       **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-62-400, WAC 480-62-405, WAC 480-62-410, WAC 480-62-415, and WAC 480-62-420 should be adopted to read as set forth in Appendix A, as rules of the

Washington Utilities and Transportation Commission, to take effect pursuant to 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

**ORDER**

*14* **THE COMMISSION ORDERS:**

- 15* (1) The Commission adopts WAC 480-62-400, WAC 480-62-405, WAC 480-62-410, WAC 480-62-415, and WAC 480-62-420 to read as set forth in Appendix A, 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).
- 16* (2) This Order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 3rd day of February, 2006.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, 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 0, amended 0, 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 5, 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.