

**ENERGY
ADVOCATES LLP**
Attorneys At Law

526 NW 18TH AVENUE
PORTLAND, OR 97209-2220
Phone: (503) 721-9118
Fax: (503) 721-9121

1500 K STREET, NW
SUITE 330
Washington, DC 20005
Phone: (202) 371-9889
FAX: (202) 371-9025

www.energyadvocates.com

Edward A. Finklea
(503) 721-9118
efinklea@energyadvocates.com

February 8, 2002

VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 S Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250

Re: NWIGU Comments in Docket No. UG-011073

Dear Ms. Washburn:

In response to the Washington Utilities and Transportation Commission's ("WUTC" or "Commission's") January 15, 2002 Notice of Opportunity to File Written Comments, the Northwest Industrial Gas Users ("NWIGU") submit these initial comments.

As the proposed rules on General Rules, Design and Construction are only an initial phase of related proposed rulemakings for WAC Chapter 480-93, it is not possible at this time to provide a complete review of the first phase draft. It will be necessary for NWIGU, and likely all parties, to review the totality of the package when all phases are completed. For example, without definitions, it is difficult to know the precise application of a particular proposed rule revision at this time. In the spirit of working through these issues in an iterative process, NWIGU submits these comments as initial ones for this phase, but reserves the right to supplement these responses.

In Proposed Rule WAC 480-93-002, NWIGU recommends that you restore "as that term is defined" by WAC _____, and fill in the number when the definitions are completed, to qualify the term "gas company." The rules should provide a clear internal cross-reference for something so fundamental to their scope. In addition, NWIGU would

appreciate confirmation that removal of the word "exclusively" is not intended to change the actual scope of application in the second sentence.

In Proposed Rule WAC 480-93-003, "Additional requirements" should be limited to subparagraph 1. NWIGU is concerned with the vagueness of subparagraph 2, as the purpose of this rules review is to define the Commission's requirements in a formal rulemaking with process. The proposed subparagraph 2 invites future controversy without actually expanding the Commission's authority.

NWIGU recommends that WAC 480-93-220 "Rule of precedence" not be deleted as it provides clarity. To the extent that any State of Washington rule standard is intended to exceed federal DOT standards, the particular rule should say so expressly, and the general interpretation standards of the current Rule of precedence should continue. NWIGU's understanding is that the general intention of the rules revision process is to make state rules consistent with federal DOT standards, which NWIGU supports.

It appears that WAC 480-93-223 has potentially been revised to substantially increase penalties with the deletion of "for a related series of violations" and a change to a standard with a \$500,000 maximum "for each violation." In the context of related violations, NWIGU would appreciate clarification of how the proposed rule is intended to work.

In proposed WAC 480-93-230, new subparagraph 4, NWIGU is concerned that the standards for an exemption are expressed too narrowly, and suggests that the standard for exception be revised to allow the Commission to consider "all relevant information and circumstances, including but not limited to hardship," etc. At the previous workshop, another participant suggested that the process be changed to one of "approval" of a modification, rather than a "waiver." NWIGU would support incorporating the above referenced suggestion in revising this section.

The revision of WAC 480-93-040 appears not to change the meaning of the current rule, but the separation of the exception clause on gas compressors into a separate subsection seems confusing. NWIGU would appreciate clarification of whether this change is intended to alter the meaning of the current rule.

In proposed WAC 480-93-175, NWIGU requests clarification on why the current service line exception to moving pipelines has been removed. Do we know the potential cost on the LDCs' systems of such a change to evaluate the costs/benefits? Is the new clause 3 intended to cover service lines? What is the intended difference with the new clause 3, if any? Is this change from a particular source?

Please include the following persons on the mailing list for communications regarding this docket:

Edward A. Finklea
Chad M. Stokes
Energy Advocates, LLP
526 NW 18th Avenue
Portland, OR 97209
(503) 721-9118
(503) 721-9121 (fax)
E-mail: mail@energyadvocates.com

Paula Pyron
Northwest Industrial Gas Users
4113 Wolf Berry Court
Lake Oswego, OR 97035-1827
(503) 636-2580
(503) 636-0703 (fax)
E-mail: ppyron@nwigu.org

NWIGU appreciates the opportunity to comment on the first phase draft, and would appreciate future drafts in this phase and subsequent phases, including a red-line version to current rules and an explanation and source to go along with particular changes. For example if the change is made to conform to federal DOT guidelines, etc.

If you have any questions on these comments, please do not hesitate to call Paula Pyron, Executive Director of NWIGU at (503) 636-2580 or Ed Finklea at (503) 721-9118.

Respectfully Submitted,

Edward A. Finklea
Chad M. Stokes
Of Attorneys for the Northwest Industrial
Gas Users
Energy Advocates, LLP
526 NW 18th Avenue
Portland, OR 97209
Tel: (503) 721-9118
Fax: (503) 721-9121