

DRAFT
Adoption by reference rulemaking, 2001
A-010827

Chapter 480-31 Private, Nonprofit Transportation Providers

**Amend
WAC 480-31-020 Application of rules.**

These rules will apply to any private, nonprofit transportation provider so defined by the laws of the state of Washington, engaged in the business of providing transportation subject to the jurisdiction of this commission for persons with special transportation needs.

~~Any tariff filed by a provider will conform to these rules. In the event of acceptance of a tariff which is in conflict with these rules, such acceptance will not be deemed a waiver of these rules. Tariffs which are in conflict with these rules are hereby superseded unless the commission authorizes the deviation in writing.~~

Cases of erroneous or doubtful interpretation of these rules by a provider or any other person or corporation are subject to appeal to the commission by any interested and proper party affected.

Upon proper showing of any provider, the commission may waive or modify, as to that provider, the provisions of any rule herein, except when such provisions are fixed by statute. No deviation from these rules will be permitted without written authorization by the commission. Violations will be subject to the penalty provisions of chapter 81.04 RCW.

The adoption of these rules will in no way preclude the commission from altering or amending the same, in whole or in part, or from requiring any other or additional service, equipment or standard, not otherwise herein provided for either upon complaint or upon its own motion, or upon the application of any party, and further, these rules will in no way relieve any provider from any of its duties under the laws of the state of Washington.

Whenever the designation "director, office of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in this section, such designations for the purpose of this rule will mean the "Washington utilities and transportation commission."

Comments:

1. Repeal language in second paragraph. Tariffs are no longer required due to a legislative change to RCW 81.66.030 that repealed Commission rate regulation of Private Non-Profit Transportation Providers effective 1998.

**Amend
WAC 480-31-030 Definitions.**

Unless the language or context indicates that a different meaning is intended, the following words, terms, and phrases will, for the purpose of this chapter, mean the following:

- (1) State - The state of Washington.
- (2) Commission - The Washington utilities and transportation commission.
- (3) Certificate - A grant of authority issued by the commission to a private, nonprofit transportation provider for the transportation of persons with special transportation needs as provided in chapter 81.66 RCW.
- (4) Corporation - A corporation, company, association, or joint stock association.
- (5) Public highway - Every street, road or highway in this state.
- (6) Motor vehicle - Every self-propelled vehicle with seating capacity of seven or more persons, including the driver.
- (7) Commercial motor vehicle - A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle is designed to transport sixteen or more passengers, including the driver.
- (8) Person - An individual, firm, or copartnership.
- (9) Private, nonprofit transportation provider - A private, nonprofit corporation providing transportation services for compensation to persons with special transportation needs.
- (10) Provider - Private, nonprofit transportation provider.
- (11) Persons with special transportation needs - Those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.
- ~~(12) Tariff - A public document setting forth services being offered, rates and charges with respect to services and governing rules, regulations and practices relating to those services.~~
- ~~(13) Donation - A gift without compulsion or consideration, that is, resting solely on the generosity of the donor.~~

Comments:

1. Repeal definitions in subsections (12) and (13). Language is obsolete due to a legislative change to RCW 81.66.030 that repealed Commission rate regulation of Private Non-Profit Transportation Providers effective 1998.

Amend

WAC 480-31-050 Certificates.

- (1) The commission will issue a certificate to any corporation which files a completed application, as provided by the commission, which provides:
 - (a) Satisfactory proof of its status as a private, nonprofit corporation;
 - (b) Information sufficient to determine the particular service to be provided;
 - (c) Satisfactory proof of insurance or surety bond, in accordance with WAC 480-31-070;
 - (d) The number and type of vehicles to be operated, together with satisfactory proof that the vehicles are adequate for the proposed service, that the vehicles are or will be licensed in compliance with the laws of the state, and that drivers of such vehicles will be adequately trained and qualified;
 - ~~(e) Any proposed rates, fares, or charges.~~

(2) Applications for certificates must be on forms to be furnished by the commission, giving all information requested and accompanied by a fifty dollar application fee.

(3) Remittances will be made by money order, bank draft, personal check or certified check, made payable to the Washington utilities and transportation commission.

(4) No provider may operate, establish, or begin operation of any business for the purpose of transporting persons with special transportation needs on the public highways of this state, without first having obtained from the commission a certificate.

(5) No certificate will be issued to persons operating under a trade name, unless a certificate of said trade name is filed in accordance with the provisions of RCW 19.80.010, and a copy thereof filed with the commission.

(6) Each vehicle operated by a provider must carry a copy of the company's certificate, and will be subject at all times to inspection by an authorized representative of the commission.

(7) Any certificate to operate as a private, nonprofit transportation provider obtained by any false affidavit or representation will be subject to cancellation by the commission.

(8) No certificate will be sold, assigned, leased, acquired, or transferred except upon authorization of the commission.

Comments:

1. Repeal language in subsection (1)(e). Language is obsolete due to a legislative change to RCW 81.66.030 that repealed Commission rate regulation of Private Non-Profit Transportation Providers effective 1998.

Repeal

WAC 480-31-060 Tariff.

~~(1) Each provider that assesses to or collects charges, rates, or fares from passengers must file with the commission a tariff setting forth its rates on forms provided by the commission. However, it is not required that a tariff be filed to cover collection of donations when the donations are entirely voluntary and a specific amount is not required to ride in the motor vehicle.~~

~~—(2) In the event that a provider proposes a new tariff or amendment which will effect an increase in fares, rates or charges, or will in any respect restrict the service offered under the currently effective tariff, a notice must be given to the public at least thirty days before the effective date thereof, unless the commission has granted authority for a lesser period. A copy of the notice must be placed in a conspicuous place on each vehicle. The notice must plainly indicate that the notice has been posted "in compliance with regulations of the Washington utilities and transportation commission," and state the commission's mailing address. A waiver of the thirty day notice provision may be applied for on forms provided by the commission.~~

~~—(3) Any provider that receives compensation solely from private, governmental or charitable grants or contracts and donations is not required to file tariffs with the commission concerning these contracts or donations.~~

Comments:

1. Repeal rule. Tariffs are no longer required due to a legislative change to RCW 81.66.030 that repealed Commission rate regulation of Private Non-Profit Transportation Providers effective 1998.

Amend

WAC 480-31-100 Equipment -- Safety.

In addition to other laws and regulations of this state, all providers must comply with the following:

The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392 (Driving of Motor Vehicles), part 393 (Parts and Accessories Necessary for Safe Operation), part 396 (Inspection, Repair and Maintenance), and part 397 (Transportation of Hazardous Materials; Driving and Parking rules). The commission adopts by reference the provisions of federal rules in effect on the date specified in WAC 480-31-999. October 1, 1998. ~~The material incorporated by reference in this section is available for public examination in the Washington utilities and transportation commission branch of the Washington state library associated with the commission's headquarters office in Olympia and is available for purchase at the Seattle office of the government printing office.~~

Comments:

1. Change in second paragraph adds a cross-reference to 480-31-999.

Amend

WAC 480-31-120 Equipment -- Inspection -- Ordered for repairs.

(1) All motor vehicles operated by providers must be maintained in a safe and sanitary condition. They must at all times be subject to inspection by the commission and its duly authorized representatives who will have power to order out-of-service any vehicle failing to meet the standards set forth in this section, or if not being operated in compliance with state laws in regard to equipment or method.

(2) Every provider must ensure that all its vehicles are regularly inspected, repaired and maintained, as required by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 396 (Inspection, Repair and Maintenance) in effect on the date specified in WAC 480-31-999.

(3) All vehicle parts and accessories must be in safe and proper working condition at all times.

(4) Equipment standards. The purpose of this subsection is to identify critical vehicle inspection items and provide criteria for placing a vehicle(s) in an out-of-service category. The criteria for out-of-service condition are those defined in the current North American Uniform

Out-Of-Service Criteria.

(a) Out-of-service condition. When any motor vehicle(s) is in out-of-service condition, no provider will require nor will any person operate such motor vehicle until all required repairs have been satisfactorily completed.

(b) The commission adopts by reference the "North American Uniform Out-of-Service Criteria" published by the Commercial Vehicle Safety Alliance in effect on ~~April 1, 1999~~ the date specified in WAC 480-31-999. ~~These documents may be viewed at the Washington utilities and transportation commission branch of the Washington state library.~~

Comments:

1. Change in subsection (2) and (4)(b) adds a cross-reference to 480-31-999.

Amend

WAC 480-31-130 Operation of motor vehicles.

(1) All motor vehicles must be operated in accordance with the requirements of existing state laws and no driver or operator will operate the same in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having due regard to the traffic and use of the highways by others, or so as to endanger the life and limb of any person.

(2) Qualification of drivers. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 391 (Qualifications of Drivers) in effect on the date specified in WAC 480-31-999, are adopted and prescribed by the commission to be observed by all providers. Vehicles meeting the definition of a commercial motor vehicle must also comply with part 382 (Controlled Substances and Alcohol Use and Testing), and part 383 (Commercial Driver's License Standards; Requirements and Penalties).

(3) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations, part ~~39~~ 395 (Hours of Service of Drivers), in effect on the date specified in WAC 480-31-999 are adopted and prescribed by the commission.

(4) No driver or operator of a motor vehicle carrying passengers may smoke any cigar, cigarette, tobacco or other substance in such vehicle while driving the vehicle.

(5) No driver or operator of any motor vehicle will permit smoking on said vehicle by passengers or other persons. Suitable signs, of sufficient size and number to adequately inform passengers, must be placed in buses to inform passengers that smoking is not permitted in the motor vehicle.

(6) No driver or operator of a motor vehicle will create any disturbance or unnecessary noise to attract persons to the vehicle.

(7) The driver or operator of any motor vehicle may refuse to carry any person who is in an intoxicated condition or conducting themselves in an unreasonably boisterous or disorderly manner or is using profane language, or whose condition is such as to be obnoxious to other passengers. A driver is responsible for the comfort and safety of passengers and should be

constantly on the alert for and immediately correct any act of misconduct on the part of occupants of the vehicle.

(8) The commission adopts by reference the provisions of federal rules cited in this section in effect on ~~October 1, 1998~~. the date specified in WAC 480-31-999. ~~The material incorporated by reference in this section is available for public examination in the Washington utilities and transportation commission branch of the Washington state library associated with the commission's headquarters office in Olympia and is available for purchase at the Seattle office of the government printing office.~~

Comments:

1. Change in subsections (2), (3) and (8) adds a cross-reference to 480-31-999.

2. Change in subsection (3) corrects an incorrect CFR reference.

Amend

WAC 480-31-140 Safety inspections.

All providers must keep on file in their main office, subject to inspection by an authorized representative of the commission, or subject to provision to the commission upon request:

(1) Description of each vehicle used, including make, serial number, and year. If the provider does not own the vehicle, the records must show the name of the person providing the vehicle;

(2) Driver's hours of service (duty status);

(3) Each driver's license number;

(4) Records of complaints, as required by WAC 480-31-090;

(5) Records of repair, inspection and maintenance, to include their date and type, as required by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 396;

(6) The commission adopts by reference the provisions of federal rules cited in this section in effect on ~~October 1, 1998~~. the date specified in WAC 480-31-999. ~~The material incorporated by reference in this section is available for public examination in the Washington utilities and transportation commission branch of the Washington state library associated with the commission's headquarters office in Olympia and is available for purchase at the Seattle office of the government printing office.~~

Comments:

1. Change in subsection (6) adds a cross-reference to 480-31-999

New Section

WAC 480-31-999 Adoption by reference.

In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of

the resources are as follows:

(1) **North American Uniform Out-of-Service Criteria (CVSA)** is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, 2001.

(b) This publication is referenced in WAC 480-31-120.

(c) The North American Out-of-Service Criteria is a copyrighted document. Copies are available from CVSA in Bethesda, Maryland.

(2) **Title 49 Code of Federal Regulations**, cited as 49 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October 1, 2000.

(b) This publication is referenced in WAC 480-31-100, 480-31-120, 480-31-130 and, 480-31-140.

(c) Copies of Title 49 Code of Federal Regulations are available from the Seattle Office of the Government Printing Office and from various third party vendors.

Comments:

1. New section created to change the section number to be consistent through out Title 480 chapters.

2. Adoption by reference dates changed.

3. Cross-references added that identify the sections within this chapter that refer to adopted material.