

MEMORANDUM

January 6, 2006

TO: Mark Sidran, Chairman
Pat Oshie, Commissioner
Phil Jones, Commissioner

FROM: Sharyn Bate, Telecommunications Regulatory Analyst

SUBJECT: Rulemaking to incorporate statutory changes into related WACs pursuant to SSB 5105 re: Transportation Notice and Hearing Rules, Docket T-051359

RE: Notice of Proposed Rulemaking (CR-102)

Summary. We recommend that you authorize the Secretary to file a Notice of Proposed Rulemaking (CR-102) with the office of the Code Reviser in Docket T-051359 amending language in the commission's transportation rules relating to notice and opportunity for hearing under statutory changes pursuant to SSB 5105.

Background. On July 24, 2005, a new law, SSB 5105, amending Title 81 RCW took effect. It amends RCW 81.66.060, 81.68.030, 81.68.040, 81.77.030, 81.77.040, and 81.84.020, and adds a new section to Chapters 81.70 and 81.68 RCW. The law and new section in Chapter 81.70 RCW relate to the certification of entities regulated by the WUTC. Prior to the amendments, the statutes required the commission to provide a hearing for any certificate holder before the certificate could be suspended or revoked.

On October 10, 2005, the commission filed a Preproposal Statement of Inquiry, CR-101, with the Code Reviser, opening a rulemaking that would consider new language to reflect the revised statutory language. On November 23, 2005, the commission filed an additional CR-101, which supplemented the original CR-101, to consider adding new language or sections to implement the statutory amendments. In addition, it would remove chapter 480-51 WAC, Commercial Ferries, from this inquiry.

Under the amended language, the statutes allow the Commission to provide only notice and an opportunity for a hearing before suspension or revocation. Amended language would also provide notice and an opportunity for hearing to an applicant who requests a certificate to operate in a territory served by an existing certificate holder.

The WAC chapters affected are:
480-31 (Private, Nonprofit Transportation Providers)
480-70 (Solid Waste Collection Companies)

Amendments to rules in Chapter 480-30 WAC (Autotransportation Companies) to incorporate the changes in RCW 81.68.030 and RCW 81.68.040, and the new section added to Chapter 81.68 RCW, will not be included in this rulemaking. They will be addressed in the Bus Rules Rulemaking currently open, Docket No. TC-020497.

Comments on the draft rules were solicited on November 28, 2005. No comments have been filed.