



TO: David W. Danner, Chairman
Jeffrey Goltz, Commissioner
Philip Jones, Commissioner

FROM: Dave Pratt, Assistant Director, Transportation Safety
Team Lead: Suzanne Stillwell
Team Members: Vicki Elliott, Rayne Pearson, Betty Young,
Jennifer Cameron-Rulkowski, and Stephany Watson

CC: Steve King, Executive Director and Secretary

DATE: October 9, 2013

SUBJECT: Rulemaking to consider modifications and additions to rules governing common carrier and household goods carriers in WAC 480-14 and 15, Docket TV-130079

RE: Adoption Hearing, October 11

RECOMMENDATION

Staff recommends that the Utilities and Transportation Commission (Commission) adopt the revised rules as published in the CR-102 filed with the Code Reviser.

BACKGROUND

The Commission began the rulemaking on February 14, 2013, along with an opportunity to comment by March 19. On June 19, the Commission issued a set of draft rules for comment, and received comments by July 19. The Commission filed revised draft rules and a CR-102 with the Code Reviser on August 21, along with the opportunity to comment by September 23.

The Commission reviewed the rules in both WAC 480-14 and WAC 480-15 to consider streamlining the insurance process for both common carriers and household goods carriers. The proposed rules would allow the Commission to cancel a carrier's operating authority for failure to maintain required liability insurance without first suspending the carrier's operating authority.

The proposed rules also make a number of minor corrections and clarifications, as well as the following changes to the household goods rules:

1. WAC 480-15-186 and 480-15-187: Clarify the requirements a carrier must meet to receive new authority and to transfer control of existing authority.
2. WAC 480-15-302: Remove the words “Washington state” from the requirement for a “valid Washington state driver’s license”; and add, “or government-issued photo identification card.”
3. WAC 480-15-590 and WAC 480-15-600: To be consistent with bus and solid waste rules, move all the language for vehicle leasing into one rule; add the requirement that the driver must comply with all safety and controlled substance rules; and remove the requirement for Commission approval before entering into a lease.
4. WAC 480-15-302(8): Add “assault” to the list of crimes for which the Commission may deny an application for provisional operating authority. Add a provision for the Commission to determine if the nature or extent of any crime over five years prior would likely interfere with the proper operation of a household goods company. If so, allow the Commission to deny the provisional application.
5. WAC 480-15-305(1)(b): Limit the provisional period to 18 months unless the Commission determines good cause to extend the provisional period beyond 18 months. Good cause may include, among other circumstances, a carrier that has not yet made an intrastate move or a carrier that has not yet achieved a satisfactory safety rating but is making substantial progress toward a satisfactory rating.
6. WAC 480-15-305(1)(d): Add “assault” to the list of crimes for which the Commission may deny an application for permanent operating authority. Add a provision for the Commission to determine if the nature or extent of any crime over five years prior would likely interfere with the proper operation of a household goods company and if so, allow the Commission to deny the permanent application.
7. WAC 480-15-430(1)(g) and WAC 480-15-450(1)(j): Revise both rules so that the Commission may involuntarily suspend or cancel a carrier’s permit when the carrier fails to meet the requirements for a criminal background check for prospective employees in accordance with WAC 480-15-555 (see #8, below).
8. WAC 480-15-555: Add language that requires existing carriers to:
 - a. Complete a criminal background check on every prospective employee.
 - b. Maintain a copy of the background check for the period of the person’s employment plus three years.
 - c. Refuse to employ a person who has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale or distribution of a controlled substance within the past five years.

9. WAC 480-15-630(8): Add language that states if a carrier completes an estimate the same day as the move, the carrier may not charge the customer for the amount of time spent on completing the estimate, and the carrier may not charge the customer for travel time to the point of origin.

STAKEHOLDER COMMENTS

In response to the draft rules, we received one comment from the Washington Movers Conference (WMC). A summary of the comment and Staff's response follows.

- Requiring background checks on household goods company employees
WMC states the time period of "within the past five years" exceeds the three-year requirement now required by the major van lines for their local agent's employees operating in Washington state. WMC contends that completing a five-year search of records requires a second criminal background check at additional cost.
- **Staff Response:** Staff recommends that the Commission maintain the current five-year time period. The five-year time period exists in the current rules for companies applying for new household goods moving authority. For existing regulated carriers, the new language in WAC 480-15-555 applies to prospective employees. As a matter of information, a background check costs \$10 to \$15. Therefore, Staff does not agree with WMC that the new requirement is onerous.

CONCLUSION

After reviewing the comment and the proposed rules in preparation for the adoption hearing, Staff concludes that there is no need to change the proposed rules. We recommend that the Commission adopt the proposed rules as published on August 21, and identified in Attachment's A and B. The proposed rules reasonably address the concerns expressed by the companies, while achieving the Commission's goals of streamlining the insurance process and clarifying the rules.

ATTACHMENTS:

- A - Proposed WAC 480-14 Rules, as published on August 21.
- B - Proposed WAC 480-15 Rules, as published on August 21.
- C - Comment Matrix