

## **WAC 480-62-125 Definitions.**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

**"Class I railroad company"** means a railroad company having annual operating revenues of \$250 million or more;

**"Class II railroad company"** means a railroad company having annual operating revenue of less than \$250 million, but more than \$20 million; and

**"Class III railroad company"** means a railroad company having annual operating revenues of \$20 million or less.

**"Commission"** means the Washington utilities and transportation commission.

**"Contract crew transportation company"** means any person, organization, company or other entity that operates one or more contract crew transportation vehicles.

**"Contract crew transportation vehicle"** means every motor vehicle designed to transport fifteen or fewer passengers, including the driver, that is owned, leased, operated, or maintained by a person contracting with a railroad company or its agents, contractors, subcontractors, vendors, sub-vendors, secondary vendors, or sub-carriers and used primarily to provide railroad crew transportation.

**"Department of labor and industries"** means the Washington state department of labor and industries.

**"Department of transportation"** means the Washington state department of transportation.

**"On track equipment"** means self-propelled equipment, other than locomotives, that can be operated on railroad tracks.

**"Passenger carrying vehicle"** means those buses, vans, trucks, and cars owned, operated, and maintained by a railroad company which primarily used to transports railroad employees, in other than in the cab of such vehicles, and are designed primarily for operation on roads which may or may not be equipped with retractable flanged wheels for operation on railroad tracks.

**"Railroad"** means every permanent road with a line of rails fixed to ties providing a track for cars or equipment drawn by locomotives or operated by any type of power, including interurban and suburban electric railroads, for the public use of conveying persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, sidings, tracks, stations, and terminal facilities of every kind, used, operated, controlled, managed, or owned by or in connection therewith. Unless otherwise provided by rule, the term "railroad" does not include logging and industrial railroads, or street railways operating within the limits of any incorporated city or town.

**"Railroad company"** means every corporation, company, partnership, association, joint stock association, or person, their lessees, trustees, or receivers appointed by any court, and any common carrier owning, operating, controlling or managing any railroad or any cars or other equipment used on, or in connection with, the railroad within this state.

**"Railroad police officer"** means a peace officer who is commissioned in his or her state of legal residence or state of employment by a railroad company to enforce state laws for the protection of railroad property, personnel, passengers, and/or cargo.

**"Remote-control area"** means any place remote-control operations are conducted on a railroad.

**"Remote-control operations"** means controlling the movement of locomotives through the use of radio transmitter and receiver systems by persons not physically located at the controls within the confines of a locomotive cab.

**"Remote-control zone"** means a designated area where access is restricted in which remote-control operations may occur under alternative point protection procedures.

**"State"** means the state of Washington.

**WAC 480-62-240 P Railroad-owned or operated passenger carrying vehicles-Equipment.**

(1) Equipment requirements for all vehicles.

(a) Vehicles must comply with all applicable equipment requirements of Title [46](#) RCW.

(b) Vehicles must have exhaust systems that prevent exposure of passengers to the vehicle's emissions.

(c) Vehicles must have two external rear vision mirrors, one at each side of the cab. The mirrors must be firmly attached to the motor vehicle at a point where the driver is provided a view of the highway to the rear along both sides of the vehicle. An outside mirror may be placed only on the driver's side on vehicles in which the driver has a view to the rear by means of an interior mirror.

(d) Vehicles must be equipped with a steering system maintained to ensure that lash or preplay do not exceed those values set forth in 49 C.F.R., Parts 570.7 and 570.60 (Vehicle in Use Inspection Standards). Information about Title 49 C.F.R. regarding the version adopted and where to obtain it is set out in WAC [480-62-999](#).

(e) Vehicles must have a heating system that will maintain an ambient temperature of at least fifty-five degrees in passenger areas.

(f) Vehicles must have at least three red-burning fusees, three red portable emergency reflectors, or at least two red cloth flags suitable for warning the motoring public in an emergency.

(g) The driver must ensure that such equipment is in the vehicle and is maintained in good condition.

(h) Any devices that may create a spark or open flame must be carried in a separate compartment or a closed metal container provided for that purpose.

(gi) Vehicles must have a two and one-half pound dry chemical fire extinguisher or its equivalent, properly filled and located where it is readily accessible for use. The extinguisher must allow visual determination of the state of its charge at all times. The extinguishing agent must be nontoxic and preferably noncorrosive. The fire extinguisher must be suitable for attachment to the motor vehicle, bear the label of approval by the Underwriters Laboratories, Inc., and be kept in good working condition at all times.

(hj) Vehicles must have a first-aid kit located where it is readily accessible. The kit must contain all of the items specified in ANSI Z308.1-2009, Minimum Requirements for Workplace First Aid Kits. Additionally, the kit must contain gloves capable of preventing exposure to **blood borne** pathogens. Items used from first-aid kits must be replaced before the next shift, and kits must be checked for compliance with this rule if the seal on the kit is broken. Information about ANSI Z308.1-2009 regarding the version adopted and where to obtain it is set out in WAC [480-62-999](#).

(2) Equipment requirements for specified vehicles.

(a) Coupling devices used on a vehicle equipped with retractable flange wheels for operation on railroad tracks must be substantial and made of metal. The devices must be equipped with safety chains or straps of sufficient strength to prevent separation in the event of accidental uncoupling.

(b) A passenger compartment separate from the cab of the vehicle must be made of metal and be fastened directly to the frame of the vehicle. The compartment must have an interior lining sufficient to absorb condensation, and padded seats and backrests firmly secured in place. The floor of the compartment must be constructed to bear the weight of all cargo and passengers. The floor must not have unnecessary openings, and it must be constructed to prevent the entry of noxious fumes or permeation with flammable materials. The compartment must have a curtain of non-permeable material of sufficient weight and size to close off the rear opening and a tailgate ~~which~~ **that** must be closed whenever the vehicle is in motion. If the bottom of the entrance to the passenger compartment is more than three feet six inches above ground level, the vehicle must have permanent or temporary steps designed for the safe boarding and discharge of passengers.

(c) Communication between a cab and a separated passenger compartment must be provided by means of a light or audible device mounted in the cab of the vehicle that may be activated by a passenger in the rear compartment.

(d) On vehicles designed to transport nine or more passengers, an emergency exit must be placed at the end of the vehicle opposite the regular entrance. The exit must be at least six and one-half square feet in area, and the smallest dimension must be at least eighteen inches. The route to and from the emergency exit must be unobstructed at all times.

**WAC 480-62-245 P Railroad owned or operated passenger carrying vehicles-  
Operation.**

**(1) General.**

**(a)** All passenger carrying motor vehicles must be operated in compliance with state law no matter where the vehicle is operated.

**(b)** Drivers must operate vehicles in a careful and prudent manner and at reasonable and proper speeds, with due regard to circumstances and to the use of highways by others.

**(2) Minimum age, skill, and physical condition of drivers.**

**(a)** Drivers of passenger carrying vehicles must be at least ~~eighteen~~ **18** years old.

**(b)** Before being allowed to drive or operate a passenger carrying vehicle, drivers must have demonstrated the physical capability of handling the controls of the vehicle with ease.

**(c)** Before driving a vehicle, drivers or operators must obtain either a valid Washington state driver's license or a valid license from the state of the driver's residence. The driver must carry the license at all times while operating a vehicle. If the passenger carrying vehicle is a type for which the state of Washington requires an extraordinary license or endorsement, the driver must have such license or endorsement.

**(3) Driver's daily hours of service.** No driver of any passenger carrying vehicle may drive for more than 10 hours without resting afterward for a minimum of eight consecutive hours.

**(4) Refueling.** No driver or any employee of a railroad company operating within the state may:

(a) Fuel a passenger carrying vehicle with the engine running. ÷

(b) Smoke or expose any flame in the vicinity of a vehicle being fueled. ÷

(c) Fuel a passenger carrying vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank. †

(d) Insofar as practicable, permit any other person to engage in activities that might result in a fire or explosion.

(e) Except on buses, all occupants of the vehicle, except the driver and those within the operating cab, must dismount and stand clear while the vehicle is being refueled.

**(5) Driving rules.**

(a) Drivers must bring vehicles to a complete stop not less than fifteen feet from the nearest rail of any at-grade crossing before crossing the track except:

- Where traffic is controlled by a police officer or a duly authorized flagger. †

- Where traffic is regulated by a traffic control signal. †

- Where traffic is controlled by crossing gate arms or an alternately flashing light signal intended to give warning of the approach of a train. †

- Where an official traffic control device as designated by the commission pursuant to RCW [81.53.060](#) (i.e., an "EXEMPT" sign, specified as R15-3 by the Manual on Uniform Traffic Control Devices) gives notice that the stopping requirement imposed by this section does not apply. Information about the Manual on Uniform Traffic Control Devices regarding the version adopted and where to obtain it is set out in WAC [480-62-999](#).

(b) Drivers must not change gears while crossing any railroad tracks.

(c) No driver may ~~drink~~ **consume alcohol intoxicating liquors** **or ingest any controlled substance** while on duty, or drive while affected by the use of intoxicating liquor or other substance ~~which~~ **that** might impair the ability to drive.

(d) No driver may proceed down a grade with the gears in neutral or the clutch disengaged.

(e) At the beginning of his or her use of a vehicle, the driver must perform a brake test immediately before, and immediately after, the vehicle begins moving to ensure that the brakes are functioning properly.

**(6) Loading and carrying of passengers.**

(a) Drivers are in charge of the vehicle and must require passengers to observe vehicle rules.

(b) Passengers may not enter or exit from the vehicle while it is in motion, or ride on running boards, fenders, bumpers, tops of cabs, or with any part of their body projecting beyond the sides or the ends of the vehicle.

**(7) Carrying equipment or tools.**

(a) When equipment or tools are carried inside the vehicle, they must be stored in enclosed racks or boxes that are secured to the vehicle in a manner that prevents employees from being struck in the event of sudden starts, stops, or turns. ~~The driver must assure that tools and materials are properly secured before moving the vehicle.~~

(b) All tools and equipment, including cylinders, containers, or drums must be properly secured ~~where so~~ they will not interfere with the use of any exit.

(c) The driver must ensure that equipment and tools are properly secured before moving the vehicle.

**(8) Limitation on transportation of explosives, gasoline, and other hazardous materials on passenger carrying vehicles.**

(a) Explosives other than track torpedoes and fusees may not be carried in or on any vehicle while the vehicle is being used to transport crew members in a passenger compartment.

(b) If track torpedoes or fusees are carried in a passenger carrying vehicle, they must be carried in a separate compartment or container provided for that purpose.

(c) Gasoline or other hazardous materials must not be carried in either the cab or in the passenger compartment; however, oxygen or acetylene cylinders may be carried if gauges and regulators have been removed with caps in place before loading.

(d) Passenger carrying vehicles may be used to carry flammable materials when they are located outside of and isolated from the passenger carrying area, and are stored in containers approved by the Underwriters Laboratories, Inc. Containers for fuel must be vented in a manner that prevents the hazardous concentration of fumes.

~~(e) All tools and equipment, including cylinders, containers, or drums, vented in a manner that prevents the hazardous concentration of fumes. All tools and equipment, including cylinders, containers, or drums, must be properly secured where they will not interfere with the use of any exit.~~ A passenger carrying vehicle containing hazardous materials must not be parked within three hundred feet of an open fire.

(f) Smoking is prohibited within fifty feet of a vehicle carrying explosive or flammable materials.

**NEW SECTION: WAC 480-6X-XXX2 Contract crew transportation registration and permit required.**

- (1) A person must register with, and receive a permit from, the commission before operating as a contract crew transportation company in the state of Washington.
- (2) The company name is the name of the permit holder.
  - (a) A company electing to conduct operations under a trade name must first register the trade name with the commission.
  - (b) A company must conduct all operations under the company name, a registered trade name, or both.

**NEW SECTION: WAC 480-6X-XXX3 Contract crew transportation vehicle and driver safety requirements.**

- (1) Companies must comply with the parts of Title 49, Code of Federal Regulations (49 C.F.R.) adopted by reference that are shown in the following chart. Information about 49 C.F.R. including the version adopted by the commission and where to obtain copies is set out in WAC **480-6X-999**.
- (2) The commission will place out-of-service any motor vehicle having safety defects identified in the *North American Uniform Out-Of-Service Criteria*. Information about the *North American Uniform Out-Of-Service Criteria* including the version adopted and where to obtain copies is set out in WAC **480-6X-999**. A company must not operate any vehicle placed out-of-service until proper repairs have been completed.
- (3) The commission will place out-of-service any driver meeting criteria identified in the *North American Uniform Out-Of-Service Criteria*. A company must not allow a driver who has been placed out-of-service to operate a motor vehicle until the conditions causing the driver to be placed out-of-service have been corrected.

<b><u>49 C.F.R. Part:</u></b>		<b><u>Notes:</u></b>
<u>Part 379 -</u>	<u>Preservation of Records</u>	<u>Entire Part 379 is adopted and applies to Washington intrastate operations.</u>
<u>Part 385 -</u>	<u>Safety Fitness Procedures</u>	<u>Entire Part 385 is adopted and applies to Washington intrastate operations.</u>

<u>49 C.F.R. Part:</u>		<u>Notes:</u>
<u>Part 390 -</u>	<u>Safety Regulations, General</u>	<u>Entire Part 390 is adopted and applies to Washington intrastate operations, with the following exceptions:</u>
-	-	<u>(1) The terms "motor vehicle," "commercial motor vehicle," and "private vehicle" are not adopted. Instead, where those terms are used in Title 49 C.F.R., they have the meanings assigned to them in WAC 480-62-125 (Contract crew transportation vehicle).</u>
-	-	<u>(2) Whenever the term "director" is used in Title 49 C.F.R., it means the commission.</u>
<u>Part 391 -</u>	<u>Qualification of Drivers</u>	<u>Entire Part 391 is adopted, with the following exceptions:</u>
-	-	<u>(1) Part 391.49 (alternative physical qualification standards for the loss or impairment of limbs) is not adopted for drivers who operate vehicles exclusively in intrastate commerce. Instead refer to WAC 480-30-226 for intrastate medical waivers.</u>
<u>Part 392 -</u>	<u>Driving of Motor Vehicles</u>	<u>Entire Part 392 is adopted and applies to Washington intrastate operations.</u>
<u>Part 393 -</u>	<u>Parts and Accessories Necessary for Safe Operation</u>	<u>Entire Part 393 is adopted and applies to Washington intrastate operations.</u>
<u>Part 395 -</u>	<u>Hours of Service of Drivers</u>	<u>Entire Part 395 is adopted and applies to Washington intrastate operations.</u>
<u>Part 396 -</u>	<u>Inspection, Repair, and Maintenance</u>	<u>Entire Part 396 is adopted and applies to Washington intrastate operations.</u>
<u>Part 397 -</u>	<u>Transportation of Hazardous Materials, Driving and Parking Rules</u>	<u>Entire Part 397 is adopted and applies to Washington intrastate operations.</u>



- (4) Companies operating a contract crew transportation vehicle must:
- (a) Comply with all state and local laws and rules governing licensing, vehicle safety, and driver safety.
  - (b) Maintain all motor vehicles in a safe and sanitary condition.
  - (c) Ensure that vehicles are free of defects likely to result in an accident or breakdown.
- (5) Persons that drive for companies operating a contract crew transportation vehicle must be immediately and automatically disqualified from operating a contract crew transportation vehicle for a period of three years if:
- (a) The person is convicted of, or is found to have committed, two or more traffic violations that result in suspension or revocation of the person's driver's license within a three-year period for a reason other than failure to pay fines.
  - (b) The person is convicted of, or is found to have committed, any of the following offenses:
    - (i) Any drug or alcohol-related traffic offense.
    - (ii) Using a vehicle to commit a felony.
    - (iii) Leaving the scene of an accident.
    - (iv) Prohibited passing of another vehicle.
    - (v) A railroad-highway grade crossing offense identified in RCW 46.25.090(8).
    - (vi) Driving with a suspended, revoked, or canceled license.
- (6) Persons that drive for companies operating a contract crew transportation vehicle that sustain a conviction or traffic violation as outlined in section (1)(e), above, must report the conviction or infraction to the company within 10 days of the date of the conviction or infraction.
- (7) No company operating a contract crew transportation vehicle, its agents, officers, or employees, will allow any article, commodity, or substance to be loaded in or on any vehicle used by the company to transport passengers that is:
- (a) Dangerous to the lives and safety of passengers.
  - (b) Prohibited by the hazardous materials rules in Title 49 C.F.R. from being transported on passenger-carrying vehicles.
- (8) No company operating a contract crew transportation vehicle may carry more passengers than the vehicle was originally manufactured to carry.
- (9) All vehicles operated under the provisions of this chapter are at all times subject to inspection by the commission or its duly authorized representatives.

- (10) Implement a controlled substance and alcohol testing program to include:
  - (a) Pre-employment testing
    - (i) A pre-employment controlled substance and alcohol test must be administered prior to a driver performing a safety-sensitive function.
  - (b) Post-accident testing
    - (i) An alcohol test must be administered as soon as practicable but no longer than eight hours following an accident where the accident involved the loss of human life, a driver receives a citation for a moving traffic violation arising from the accident if the accident involved bodily injury to any person who, as a result of the injury immediately receives medical treatment away from the scene of the accident or one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
    - (ii) A controlled substance test must be administered within 32 hours following an accident where the accident involved the loss of human life, a driver receives a citation for a moving traffic violation arising from the accident if the accident involved bodily injury to any person who, as a result of the injury immediately receives medical treatment away from the scene of the accident or one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
  - (c) Random testing
    - (i) Every driver shall submit to random alcohol and controlled substance testing.
    - (ii) The minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
    - (iii) The minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions.
  - (d) Reasonable suspicion testing
    - (i) All persons designated to supervise drivers shall receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

**NEW SECTION: WAC 480-6X-XXX4 Contract crew transportation insurance requirements.**

- (1) Companies operating a contract crew transportation vehicle must meet the following minimum insurance requirements:
  - (a) Five million dollars combined single limit coverage for bodily injury and property damage liability coverage.
  - (b) One million dollars uninsured and underinsured motorist coverage.

(2) If a contract crew transportation company hires a driver to drive a vehicle owned by the contract crew transportation company to transport a railroad crew, the insurance requirements outlined in section (1), above, apply.

(a) The insurance requirements may be met by either the contract crew transportation company, the third party, or the railroad company.

(b) It is the responsibility of the contract crew transportation company to obtain and retain proof of insurance coverage for the third party driver.

**NEW SECTION: WAC 480-6X-XXX5 Contract crew transportation passenger notice requirements.**

(1) Companies operating a contract crew transportation vehicle must post adequate notice in a conspicuous location in all vehicles that advises passengers of:

(a) Their rights.

(b) The opportunity to submit safety complaints to the commission.

(c) The complaint process.

(d) Contact information for the commission.

**NEW SECTION: WAC 480-62-XXX5 Contract crew transportation safety training.**

(1) Companies providing contract crew transportation must provide at least eight hours of safety training that includes, but is not limited to:

(a) Vehicle safety awareness.

(b) Passenger safety awareness.

(c) Rail yard safety.

(d) Grade crossing safety.

(e) Load securement.

(f) Distracted driving.

(g) Fatigued driving.

(h) Familiarization with:

a. Railroad yards, property, pick-up points and drop-off points where the driver is expected to operate the vehicle.

b. Any rules or requirements imposed by the railroad at the locations where the driver is expected to operate the vehicle.

c. General railroad safety requirements.

d. Grade crossing safety.

(i) The training required in subsection (h), above, must be provided by the railroad for whom the driver will be transporting railroad crews.

(2) Each company providing contract crew transportation must provide to the commission a description of its safety training program for approval prior to implementing the program at the company.

(3) Each company must require existing drivers to attend the safety training within six months of approval of the training program by the commission.

(4) If the commission finds driver safety behavior is such that refresher training is warranted, the commission may require such training.

**NEW SECTION: WAC 480-6X-XXX7 Contract crew transportation enforcement.**

(1) The commission will investigate safety complaints related to contract crew transportation. Information included in safety complaints that identifies the employee who submitted the complaint is exempt from public inspection and copying pursuant to RCW 42.56.330.

(2) The commission may, in enforcing rules and orders, inspect any contract crew transportation vehicle.

(a) Contract crew transportation companies are required to inspect, or have inspected, every vehicle as required in WAC 480-6X-XXX3 through adoption of 49 CFR, Part 396.

(3) The commission may take enforcement action, based on a complaint or on its own motion, as follows:

(a) Assess penalties as warranted.

(b) Suspend or revoke a permit after notice and opportunity for hearing.

**NEW SECTION: WAC 480-6X-XXX8 Contract crew transportation reporting requirements.**

(1) Companies operating a contract crew transportation vehicle must, at the request of the commission, provide data relevant to any complaints and accidents, including:

(a) Location.

(b) Time of day.

(c) Visibility.

(d) Description of the event.

(e) Any resulting property damage or personal injuries.

(f) Any corrective action taken by the railroad company, person operating the contract crew transportation vehicle, or the commission.

**NEW SECTION: WAC 480-6X-XXX8 Contract crew transportation record retention requirements.**

(1) A contract crew transportation company must keep and provide or make available to the commission on request, and within 48 hours, the following records for the specified time periods:

- (a) All documents related to driver hours of service for a period of at least six months
- (b) Verification of each driver's qualifications for the duration of the driver's employment and for three years thereafter; and
- (c) All documents related to alcohol and controlled substance testing for a period of three years.
- (d) All documents related to vehicle maintenance for a period of 12 months.
- (e) All documents related to any vehicle collisions or other accidents that occur for a period of at least three years from the date of the accident. Such records must include copies of all accident reports and any other documents that identify the date and geographic location of the accident, the driver name, the number of fatalities or persons injured and a description of those injuries.

### **WAC 480-6X-999 Adoption by reference.**

In this chapter, the commission adopts by reference all or portions of the 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) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, 2016.

(b) This publication is referenced in WAC 480-6X-XXX3 (Contract crew transportation vehicle and driver safety requirements).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

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

(a) The commission adopts the version in effect on April 1, 2016.

(b) This publication is referenced in WAC 480-62-XXX3 (Contract crew transportation vehicle and driver safety requirements).

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