

**Small Business Economic Impact Statement (SBEIS)**  
**Rulemaking to update motor carrier safety rules in Chapters WAC 480-15; household goods companies; WAC 480-30 passenger transportation companies, WAC 480-70 solid waste companies, and WAC 480-14 and 480-31 related to surplus lines insurance**  
**Docket T-220252**  
**March 7, 2023**

**I. Introduction:**

On July 15, 2022, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) for a rulemaking to update motor carrier safety rules in Chapters WAC 480-15; household goods companies; WAC 480-30 passenger transportation companies, and WAC 480-70 solid waste companies. On October 11, 2022, the commission issued an amended Notice and Preproposal Statement of Inquiry to allow the Commission to also consider revisions to WAC 480-14 and WAC 480-31 related to surplus lines insurance requirements. The Commission's review of these safety rules is intended to improve consistency between the Commission's rules, Washington State Patrol's (WSP) rules, and Federal Motor Carrier Safety Regulations (FMCSR). In addition to improving consistency with other applicable regulations, this rulemaking is intended to improve public safety and to provide for more equitable treatment of regulated companies subject to the rules.

In its July 15, 2022, notice, the Commission requested comments before preparing proposed rules. The Commission asked, among other points, whether any of its safety rules were obsolete, duplicative, or ambiguous; whether any rules should be amended in light of changed circumstances; whether the rules were written in a clean manner; and whether any safety rules conflicted with regulations WSP rules or FMCSR. The Commission received written comments from one interested person, the Washington Refuse and Recycling Association (WRRRA), and the Commission held a workshop on October 11, 2022.

On December 14, 2022, the Commission issued draft proposed rules and requested comments on the draft proposed rules by January 13, 2023. The Commission subsequently received one comment from Jim Tutton, with the Washington Movers Conference (WMC). Tutton supports the changes in the proposed rules.

The same day, December 14, 2022, the Commission issued a Notice of Opportunity to Respond to the Small Business Economic impact statement (SBEIS) Questionnaire. The Commission did not receive any Responses to the SBEIS Questionnaire.

At this time, the Commission is ready to publish proposed rules. When issuing a notice of proposed rules, agencies must provide a copy of the SBEIS prepared in accordance with chapter 19.85 RCW, or explain why an SBEIS was not prepared. The Commission has evaluated the effect of the rules on small businesses and determined that this rulemaking will impose no more than minor costs on small businesses.

## **II. SBEIS Requirements:**

The Regulatory Fairness Act, codified in chapter 19.85 RCW, provides that an agency must conduct an SBEIS “if the proposed rule will impose more than minor costs on businesses in an industry.” RCW 19.85.030. An SBEIS is intended to assist agencies in evaluating any disproportionate impacts of the rulemaking on small businesses. A business is categorized as “small” under the Regulatory Fairness Act if the business employs 50 or fewer employees. Under RCW 19.85.040(1), agencies must determine whether there is a disproportionate impact on small businesses in the industry, and under RCW 19.85.030(2), consider means to minimize the costs imposed on small businesses.

## **III. SBEIS Evaluation Procedure:**

On December 14, 2022, the Commission served a notice to all interested persons requesting notice of the Commission’s rulemakings, providing a copy of the draft proposed rules and an opportunity to respond to an SBEIS Questionnaire. The notice requested that companies that would be affected by the draft rules provide information about the rules’ possible cost impacts, with specific information for each rule that the companies identified as causing an impact. The Commission received no responses to the SBEIS Questionnaire.

Pursuant to the Regulatory Fairness Act, the Commission is required to conduct an SBEIS before adopting a rule that will impose more than minor costs on an industry. In analyzing the draft proposed rule, the enacting statute, and the current rule, the Commission has determined that the draft proposed rules impose no more than minor costs on small businesses. As a general matter, this rulemaking seeks to clarify or improve consistency of existing regulatory requirements.

## **IV. Results of the Analysis:**

No companies responded to the SBEIS questionnaires. In evaluating the cost of complying with the proposed rules, the Commission conducted a pertinent section analysis.

### **A. WAC chapter 480-14, Motor carriers**

In this rulemaking, the Commission has proposed various clarifying changes to WAC chapter 480-14, which is concerned with motor carriers, excluding household goods carriers and common carrier brokers.

Specifically, the Commission has proposed clarifying changes to WAC 480-14-250, such as changing “ten thousand” to “10,000,” which have no material impact on industry practices. There is also a proposed amendment to paragraph (1) of the same section to allow common carriers to use surplus lines insurance from an unauthorized insurer. While this is a substantive amendment to the rule, it merely implements the provisions of RCW 48.15.040, which authorizes the use of such insurance.

## **B. WAC chapter 480-15, Household goods carriers**

The Commission has proposed minor, clarifying amendments to the definitions contained in WAC 480-15-020, which include changing the term “twenty five percent” to “25 percent.”. These proposed changes clarify the meanings of the rules without changing their effect. Additionally, definitions of “commercial motor vehicle, exempt motor carrier, motor vehicle and private carrier” were moved from WAC 480-15-560 and WAC 480-15-570 for organizational improvements.

The Commission has proposed a more substantive amendment to WAC 480-15-530, which would allow a household goods carrier to obtain surplus lines coverage from an unauthorized insurer. This proposed amendment is expected to reduce costs for small businesses by allowing additional options for surplus lines coverage. The Commission has also proposed certain clarifying changes to this same section, which are not expected to have a material impact on industry practices.

The Commission proposed amendments to WAC 480-15-555, which addresses criminal background checks for prospective employees. The proposed revisions specify the use of national criminal background checks for prospective employees, rather than simply “criminal background checks,” which has allowed for the use of state-only criminal background checks. This change may cause cost impacts to household goods companies who may not currently conduct nationwide criminal background checks; however the Commission does not expect these impacts to be material. There are a variety of national background check services available to the industry. The Washington State Patrol WATCH report costs \$11 per name searched. According to [www.criminalwatchdog.com](http://www.criminalwatchdog.com), the average cost of a state criminal background check is \$12.95 while the average cost of a national criminal background check is \$18.95. This is a difference of \$6. Most household good companies hire employees during the warmer months. If a company hired five temporary employees a month for five months, the overall cost, assuming the estimates above would be about \$250. Staff believes this cost is minimal and increases public safety and consumer protection substantially. Other minor amendments to this chapter include clarifying the requirements for retaining records of national criminal background checks.

The Commission proposed combining the requirements in WAC 480-15-560 and WAC 480-15-570, into WAC 480-15-560 and renaming the section “Vehicle and driver safety requirements.” The combining of sections reduces the amount of navigation required to identify safety requirements and is consistent with other regulated industries. The proposed amendments contained in WAC 480-15-560 include clarifying that vehicles must be maintained in proper working condition and that a household goods carrier should not permit a driver to operate a vehicle placed in “out-of-service” status, among other points. An additional proposed amendment in this section includes a driver shall not operate a vehicle placed in “out-of-service” status. These amendments are intended to improve consistency with FMCSA requirements,

which are already cited and adopted in WAC chapter 480-15, and do not impose any materially different requirements on household goods carriers.

The Commission has proposed the vehicle marking requirements identified in WAC 480-15-560 be moved to a new section WAC 480-15-565. This new section amends the existing marking requirements to require all household goods carriers to include the company permit number and USDOT number on both sides of all self-propelled vehicles. The proposed amendments to the language are intended to improve consistency with other regulated industries and with FMCSA requirements. While this rule currently requires vehicle identification to be “clearly legible” and “no less than three inches high,” the proposed amendments would more clearly state that the identification must be, for instance, legible during daylight hours from 50 feet. The proposed amendments also allow for temporary markings on vehicles subject to a lease term of 30 days or less. These amendments generally have the effect of clarifying the existing, relatively vague requirement that permanent identification should be “clearly legible.” It is expected to have de minimis cost impacts on passenger transportation companies. The provision for temporary markings is expected to provide companies some cost-saving.

The Commission proposed a new section WAC 480-15-575, which allows household goods carriers to use commercial licensed drivers who are not physically qualified under federal regulations but have obtained an intrastate medical waiver from the Department of Licensing (DOL). This new section closely parallels DOL rule WAC 480-30-226. This section also allows non-commercial licensed intrastate drivers who are not physically qualified under federal regulations to operate motor vehicles following a doctor’s statement that the driver’s condition is likely to remain stable for a specified period. It is expected to improve the consistency of the rules and provide greater flexibility for regulated companies.

The Commission proposed clarifying changes and an amendment to WAC 480-15-590, which allows a household goods carrier to include either a physical or digital copy of a vehicle’s lease agreement. By allowing for carriers to use a digital copy, this provides more flexibility and may reduce costs. These changes do not otherwise alter the effect of the rule.

### **C. WAC chapter 480-30, Passenger transportation companies**

Proposed amendments to WAC 480-30-036 would clarify the meaning of the rule without changing its effect. For example, the Commission has proposed amending its use of the terms “combination” and “vehicle” to clarify the definition of a “commercial motor vehicle.” These proposed changes render the definitions (a) and (b) for a commercial motor vehicle more consistent, as they would both focus on “gross vehicle weight” ratings.

The Commission proposed clarifying changes to WAC 480-30-191, such as changing “thirty” to “30,” which have no material impact on industry practices. There is also a proposed amendment to paragraph (1)(a) of the same section to allow a private, nonprofit transportation provider to use

surplus lines insurance from an unauthorized insurer. While this is a substantive amendment to the rule, it merely implements the provisions of RCW 48.15.040, which authorizes the use of such insurance.

The Commission proposed amending WAC 480-30-221, regarding vehicle and driver safety requirements. These proposed revisions clarify the meaning of the rule and clarify the way the Commission will enforce FMCSA rules, without changing the effect of this rule on auto transportation companies. The Commission also proposed an amendment to this rule that would change the seating capacity threshold for which this rule applies, as discussed in more detail below.

The Commission proposed amending WAC 480-30-222, which sets forth requirements for relatively smaller vehicles. In its present version, this rule applies to vehicles with a capacity for seven or fewer passengers, including the driver. Vehicles with a capacity of eight or more, including the driver, are not subject to this rule and are instead required to comply with the portions of Title 49 CFR adopted by reference in this chapter. The proposed revision would extend this rule to vehicles with eight or fewer passengers, including the driver. This change has been proposed to better align with 49 CFR Part 390.5, which defines commercial motor vehicles as vehicles used to transport more than eight passengers, including the driver, for compensation. Under the rules current language, this leaves a potential regulatory gap for commercial vehicles with a seating capacity of exactly eight passengers, including the driver. The Commission believes that extending the provisions of WAC 480-30-222 will allow the commission to focus its limited resources on larger commercial motor vehicles that transport more passengers. The Commission assumes this will reduce costs to the passenger transportation industry overall and increase safety procedures making them more in line with federal regulations. UTC assumes there will be no material cost impact on its regulated auto transportation companies. There are additional changes proposed, which are stylistic or clarifying in nature and will not affect the application of the rule.

The Commission proposed certain clarifying amendments to WAC 480-30-226, which already allows passenger transportation companies to use a driver with an intrastate medical waiver. For example, the Commission proposes to clarify the wording regarding the duration of a doctor's statement of intrastate medical waiver, while maintaining the current two-year limitation on the validity of such a medical certificate. The Commission also clarifies that the company may maintain either a physical or digital copy of the doctor's statement. This resolves a potential ambiguity in the interpretation of the rule in favor of providing companies with flexibility in how they maintain driver files.

The Commission proposed more precise, clarifying language for WAC 480-30-231. While this rule currently requires vehicle identification to be "clearly legible," the proposed amendments would more clearly state that the identification must be, for instance, legible during daylight

hours from a distance of 50 feet. The proposed amendments also allow for temporary markings on vehicles subject to a lease term of 30 days or less. These amendments generally have the effect of clarifying the existing, relatively vague requirement that permanent identification should be “clearly legible.” It is expected to have de minimis cost impacts on passenger transportation companies. The provision for temporary markings is expected to provide companies some cost-savings.

Proposed amendments to WAC 480-30-236 clarify that the company operating a leased vehicle may carry either a physical or digital copy of the lease agreement. This provides companies greater flexibility and better conforms to current practices. The proposed amendments also more clearly identify the responsibilities of the passenger transportation company operating a leased vehicle. Although the list of responsibilities—such as maintaining proper insurance—may appear substantive, these responsibilities are consistent with other existing federal and state requirements. These proposed amendments are therefore not expected to increase costs for small businesses.

#### **D. WAC chapter 480-31, Private, nonprofit transportation providers**

The Commission has proposed similar changes to WAC chapter 480-31, which is concerned with private, nonprofit transportation providers.

Specifically, the Commission has proposed clarifying changes to WAC 480-31-070, such as changing “10” to “ten,” which have no material impact on industry practices. There is also a proposed amendment to paragraph (1) to allow a private, nonprofit transportation provider to use surplus lines insurance from an unauthorized insurer, which merely implements the provisions of RCW 48.15.040.

The Commission proposed adding a new section, WAC 480-31-150, allowing for intrastate medical waivers. As noted above, this proposed new section is like DOL rule WAC 480-30-226 and should provide greater flexibility for private, nonprofit transportation providers.

#### **E. WAC chapter 480-70, Solid waste collection carriers**

There are similar proposed changes to WAC chapter 480-70 with regards to solid waste collection companies.

The Commission proposed amending WAC 480-70-181 to allow solid waste collection companies to obtain surplus lines insurance from an unauthorized insurer. As noted above, the proposed language merely implements the pertinent statute, RCW 45.15.040.

The Commission proposed amending WAC 480-70-201, regarding vehicle and driver safety requirements. These proposed revisions clarify the meaning of the rule and clarify the manner

the Commission will enforce FMCSA rules, without changing the effect of this rule on solid waste collection carriers.

The Commission also proposes a new section, WAC 480-70-203, allowing for intrastate medical waivers. As noted above, this proposed new section is like DOL rule WAC 480-30-226 and provides greater flexibility for solid waste collection carriers.

Proposed amendments to WAC 480-70-206 would allow solid waste collection companies to use temporary markings to identify vehicles under a lease agreement of 30 days or less. This amendment is expected to provide greater flexibility and to reduce costs for small businesses.

The Commission has also proposed amending WAC 480-70-211 to allow a solid waste collection carrier to include either a physical or digital copy of a vehicle's lease agreement. By allowing for carriers to use a digital copy, this provides more flexible and may reduce costs. These changes do not otherwise change the effect of the rule.

#### **V. Proposed Rule that May Create Costs:**

The Commission's analysis shows that the proposed amendments and proposed new rule sections are not anticipated to increase costs for small business except for the criminal background checks amendment. However, as described above, those costs are not significant. The proposed rule language would clarify existing regulatory requirements; better defining, for example, what is meant by "clearly legible" identification on vehicles. The proposed rule language would also render Commission rules more consistent with other statutes and regulations, including RCW 45.15.040, Department of Licensing regulations, and FMCSA.

#### **VI. Summary of Findings:**

The Commission finds that the proposed amendments and proposed new rule sections improve consistency with other statutes and rules, clarify existing regulatory requirements, and provide greater flexibility to regulated companies. These rules are expected to impose no more than minor costs.

#### **VII. Summary of Mitigation:**

The Commission's analysis supports a finding that this rulemaking does not impose additional costs beyond those imposed by existing statutes and regulations.

#### **VIII. Conclusion**

Chapter 19.85 RCW requires that an agency prepare an SBEIS to assess whether proposed rules would impose more than minor costs on businesses in an industry.

The Commission has analyzed all information collected throughout the rulemaking process and concludes the proposed rules implement state law, improve consistency with other federal and state statutes and regulations, clarify existing regulatory requirements, and provide greater flexibility to regulated companies. This rulemaking will neither impose more than minor costs nor have a disproportionate impact on small businesses.