



TO Dave Danner, Ann Rendahl, Milt Doumit, Amanda Maxwell
FROM Rulemaking Team - Michael Howard, Jason Sharp, Elaina Young, Tracy Cobile, Greg Hammond, Jeff Roberson, Paige Doyle, Jason Lewis, Mathew Perkinson
DATE May 17, 2023
SUBJECT Motor Carrier Safety Rulemaking Adoption Hearing – Docket T-220252

Recommendation

Commission Staff (Staff) recommends that the Utilities and Transportation Commission (Commission) adopt the rules in Docket T-220252 as published in the CR-102 filed with the Code Reviser and reflected in the proposed rules attached to this memo. A detailed list of the proposed rule changes can be found at the end of this memo. The list is organized by industry and Washington Administrative Code. Each proposed change is supported by a narrative description of the change and the impact the change has on the relevant safety rule.

Background

CR-101 and Notice of Workshop

The motor carrier safety rules are being updated to improve consistency between the Commission’s safety rules, Washington State Patrol’s (WSP) safety rules, and Federal Motor Carrier Safety Regulations (FMCSR). The rulemaking is consistent with and supports initiatives in the Commission’s 2021-23 Strategic Business Plan by advancing public safety.

On July 15, 2022, the 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 the same day, the Commission issued a Notice of Opportunity to File Written Comments and Notice of Workshop. More than a thousand interested persons were notified via email through the Commission’s Records Center including representatives from the Washington Movers Conference (WMC), Washington Refuse and Recycling Association (WRRRA), Washington Trucking Association (WTA), Northwest Motorcoach Association (NWMA), Federal Motor Carrier Safety Administration (FMCSA), Washington State Patrol (WSP) and others.

On October 11, 2022, the Commission mailed an amended Notice of Opportunity to File Written Comments. The initial CR-101 inadvertently omitted a reference to rules related to surplus lines insurance for motor common carrier and non-profit transportation providers. The amended CR-101 and Preproposal Statement of Inquiry allows the Commission to consider revision to WAC 480-14 and WAC 480-31 related to surplus lines insurance requirements in addition to previously identified safety rules governing household goods, passenger transportation, and solid waste collection companies.

CR-101 Comments

On August 15, 2022, the Commission received a comment to the CR-101 request for comments. WRRRA filed a comment related to 18-year-old intrastate drivers. WRRRA made no clear objections to the proposed rule changes but conveyed that it believed WAC 480-70-201 is not incompatible with the Washington State Patrol (WSP's) rule which allows for the use of 18-year-old intrastate drivers. WRRRA's comment and staff's response are attached to this memo in the adoption hearing comment matrix.

Workshop

On October 11, 2022, the UTC hosted a workshop allowing further opportunity for interested persons to provide comments in the rulemaking. A recording of the workshop is available in the docket for reference. Two non-UTC state agencies participated, the Department of Licensing (DOL) and the Office of the Insurance Commission (OIC). Two trade associations participated, the Washington Refuse and Recycling Association (WRRRA) and the Washington Movers Conference (WMC).

The rulemaking team presented the most impactful proposed changes to the motor carrier safety rules. There were no objections or opposition to any potential rule amendments or changes. There were a few comments supporting proposed rule amendments in the interest of public safety and supported by industry. WRRRA and WMC both indicated that there is a national driver shortage and they wanted to ensure that no rules were created or amended that would hinder motor carriers' abilities to recruit or retain drivers. Staff's proposed rules changes do not create any barriers for commercial drivers to drive commercial vehicles.

Draft Rules and SBEIS

On December 14, 2022, the Commission mailed a notice to interested parties in the Commission's rulemaking, providing a copy of the draft proposed rules and an opportunity to

respond to a Small Business Economic Impact Statement 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 was identified as possibly causing an impact. The Commission also sought comments regarding the Commission's use of inclusive language. The Commission reviewed its motor carrier safety rules and removed words that reflect racial and other discriminatory biases contrary to the values of the Commission, undermine our commitment to equity, and harm Black, Indigenous, and people of color and other under-represented communities. Comments were due no later than January 13, 2023.

On January 9, 2023, the Commission received a comment from the WMC in support of the Commission's proposed amendments. The Commission received no other responses to the amended CR-101 or the SBEIS Questionnaire.

CR-102 and Notice of Opportunity to Comment

On March 6, 2023, the Commission filed a Notice of Proposed Rulemaking (CR-102) with the Office of the Code Reviser. On March 7, 2023, the Commission issued a Notice of Opportunity to Comment seeking written comments on the proposed rules. Comments were due by April 14, 2023.

CR-102 Comments

On April 14, 2023, the Commission received one comment in response to the CR-102 request for comments. The WRRRA submitted a comment with a suggestion to make an amendment in WAC 480-70-203. Staff spoke with WRRRA and WRRRA agreed with staff that the suggested amendment ultimately isn't necessary as it does not impact the effect of the rule on regulated solid waste companies. Pursuant to the CR-102, the Commission will hold an adoption hearing on June 7, 2023.

Conclusion

After reviewing the comments filed in response to the CR-102 and proposed rules, Staff recommends the Commission adopt rules as filed with the Code Reviser on March 6, 2023.

ATTACHMENTS

Proposed Rules (including revisions)
Comment Matrix

Proposed Rule Changes

WAC 480-14 (Common Carriers)

WAC 480-14-250

1. Amends language regarding the acceptance for common carrier companies to use surplus lines insurance:

Required insurance coverage. Each applicant for common carrier authority and each common carrier must file with the commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington or by an unauthorized insurer providing surplus lines coverage subject to provisions of RCW 48.15.040, covering each motor vehicle as defined in RCW 81.80.010 used or to be used under the permit.

2. Reformats language related to values for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule. For example, “ten thousand” was changed to “10,000” and “sixty days” to “60 days.”

Proposed Rule Changes

WAC 480-15 (Household Goods)

WAC 480-15-020

1. Moves definitions that were previously located in WAC 480-15-560 and WAC 480-15-570 as follows:

Commercial motor vehicle: Any motor vehicle used by a household goods carrier to transport household goods, if either the vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 pounds or more or if the gross vehicle weight or gross combination weight is 10,0001 pounds or more.

Exempt motor carrier: Any person operating a motor vehicle is exempt from certain provisions of Title 81 RCW as defined in RCW 81.80.040.

Motor vehicle or vehicle: Any vehicle, machine, tractor, trailer, or semi-trailer propelled or drawn by mechanical power, or any combination of such vehicles, used on the public roads to transport household goods.

Private carrier: Persons who transport their own household goods, transport household goods bought or sold by them or transport household goods purely as an incidental adjunct to an established business.

2. Reformats language related to values for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule. For example, “ten thousand” was changed to “10,000” and “twenty-five percent” to “25 percent.”
3. Amends the definition of “carrier or household goods carrier” to include “motor carrier” as follows:

Carrier, household goods carrier, or motor carrier: A person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods.

WAC 480-15-530

1. Amends language regarding the acceptance for household goods companies to use surplus lines insurance:

The policy must be written by an insurance company authorized to write insurance in Washington state or by an unauthorized insurer providing surplus lines coverage subject to the provisions of RCW 48.15.040, covering each motor vehicle as defined in RCW 81.80.010 used or to be used under the permit.

2. Reformats language related to values for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule. For example, “three hundred thousand dollars” was changed to “300,000” and “thirty days” to “30 days.”

WAC 480-15-555

1. Adds language increasing the requirement of household goods companies to conduct a state level background check to a national background check for potential employees as follows:

Criminal background check for prospective employees. (1) Each carrier must complete a national criminal background check for every person the carrier intends to hire.

WAC 480-15-560

1. Combines rules in WAC 480-15-560 and WAC 480-15-570, into one section and renames it as “Vehicle and driver safety requirements,” reducing the navigation required for household goods companies to access the safety rules and creating consistency with other regulated industries.
2. Reformats rules listed out in long narratives into table format for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule, creating consistency amongst regulated industries in how safety rules are presented in WAC.

WAC 480-15-565

1. Creates a new section titled “Motor vehicle identification.” Previous vehicle marking requirements were listed out in WAC 480-15-560 and are being separated for consistency amongst industries.
2. Amends the requirements to include the UTC and USDOT number on the driver and passenger side of self-propelled motor vehicles.
3. Amends the marking requirements to include they be:

Legible, during daylight hours, from 50 feet while the motor vehicle is not moving. In a color that contrasts with the background color of the motor vehicle. Permanent.

Exception: Carriers may use temporary markings on vehicles when operated under a lease, when the rental agreement or lease has a term of 30 days or less.

WAC 480-15-575

1. Creates a new section titled “Intrastate medical waivers,” to allow household goods companies to use commercially licensed drivers who are not physically qualified per the federal regulations but have obtained an intrastate medical waiver from the Department of Licensing (DOL).

Closely parallels the passenger safety rules by creating a process for non-commercially licensed drivers who are not physically qualified per the federal regulations to operate motor vehicles in intrastate commerce, following a doctor’s statement that the driver’s condition is likely to remain stable for a specified period.

2. Establishes the requirements to retain the intrastate medical waiver in either physical or digital form in the driver's qualification file.
3. Adds language to the doctor's statement of intrastate medical waiver to allow for time frames of validity of the doctor's statement for up to two years, as follows:

The driver's condition is likely to remain stable for the next two years or other specified date, but not more than the two years that the medical certificate is valid.

4. Reformats language related to values for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule. For example, "over 26,000 lbs." was changed to "26,001 pounds or more," and "sixteen or more passengers" was changed to "16 or more passengers."
5. Establishes the requirement to retain the intrastate medical waiver in either physical or digital form in the driver's qualification file.

WAC 480-15-590

1. Amends language to allow for either a physical or digital copy of leasing documents.
2. Removes the term "master lease" from the rule to better align with the UTC's goals of using inclusive language.

Proposed Rule Changes

WAC 480-30 (Passenger Transportation)

WAC 480-30-036

1. Amends definition of “motor vehicle or vehicle” to change the seating capacity of passengers from eight or more to more than eight. “Motor vehicle” or “vehicle” means:

As related to auto transportation companies: Every self-propelled vehicle used on the public highways, for the transportation of persons for compensation.

As related to charter and excursion carriers: Every self-propelled vehicle with a manufacturer’s seating capacity for more than eight passengers, including the driver, used on the public highways, for the transportation of persons for compensation.

2. Reformats language related to values for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule. For example, “twenty-one years” was changed to “21 years” and “ninety days” to “90 days.”

WAC 480-30-191

1. Amends language regarding the acceptance for passenger transportation companies to use surplus lines insurance:

The insurance policy must be written by an insurance company authorized to write insurance in the state of Washington or by an unauthorized insurer providing surplus lines coverage subject to the provisions of RCW 48.15.040.

2. Reformats language related to values for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule. For example, “thirty days” was changed to “30 days.”

WAC 480-30-221

1. Amends the vehicle and driver safety requirements applicability from vehicles with a seating capacity of eight passengers, to nine passengers including the driver. This amendment aligns with the Federal regulations and allows UTC staff to focus its enforcement efforts on vehicles with larger seating capacities that are not traditionally sized personal transportation vehicles.

2. Amends language related to passenger safety requirements to include loading of animals as follows:

No company, its agents, contractors, officers, or employees will allow any animal, article, commodity, or substance to be loaded in or on any motor vehicle used by the company to provide

certificated services to transport passengers that is dangerous to the lives and safety of passengers.

- 3. Adds language for consistency amongst industries related to Washington state requirements to have motor vehicles equipped with fenders, covers, mud flaps, or splash aprons as follows:**

All motor vehicles must be equipped with fenders, covers, mud flaps, or splash aprons which effectively reduce the spray of splash of water from the road. All such devices must be as wide as the tires on which they are mounted and must extend from the top of the tires down to at least the center of the axle.

- 4. Adds language for consistency amongst industries related to the UTC’s authority to place drivers and vehicles out-of-service when safety defects meet the North American Uniform Out-of-Service Criteria.**

WAC 480-30-231

- 1. Amends vehicle and driver identification rules for consistency amongst industries, requiring the markings to be:**

Legible, during daylight hours, from 50 feet while the motor vehicle is not moving.

In a color that contrasts with the background color of the motor vehicle.

Permanent. Exception: Carriers may use temporary markings on vehicles when operated under a lease, when the rental agreement or lease has a term of 30 days or less.

WAC 480-30-222

- 1. Amends the applicability of the safety rules in this section from seven or fewer, to eight or fewer including the driver. This amendment allows for the eight passenger capacity vehicles, that were previously included in WAC 480-30-221, to be included in the safety requirements for traditionally established for vehicles with a seating capacity of seven, including the driver.**
- 2. Reformats language related to values for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule. For example, “twenty-four hours” was changed to “24 hours.”**

WAC 480-30-236

- 1. Amends leasing requirements for consistency amongst industries, resembling the household goods company leasing requirements.**
- 2. Adds language to allow for either a physical or digital copy of leasing documents.**

Proposed Rule Changes

WAC 480-31 (Non-Profit Transportation Providers)

WAC 480-31-070

1. **Amends language regarding the acceptance for nonprofit transportation providers to use surplus lines insurance:**

Evidence of liability and property damage insurance or a surety bond must be on file before a certificate will be issued to a private, nonprofit transportation provider. The insurance or surety bond must have been written by a company authorized to write such insurance in the state of Washington or by an unauthorized insurer providing surplus lines coverage subject to the provisions of RCW 48.15.040.

2. **Reformats language related to values for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule.**

For example, “thirty days” was changed to “30 days.”

WAC 480-31-150

1. **Creates a new section titled “Intrastate medical waivers,” to allow nonprofit transportation providers to use commercially licensed drivers who are not physically qualified per the federal regulations but have obtained an intrastate medical waiver from the Department of Licensing (DOL).**

Closely parallels the passenger safety rules by creating a process for non-commercially licensed drivers who are not physically qualified per the federal regulations to operate motor vehicles in intrastate commerce, following a doctor’s statement that the driver’s condition is likely to remain stable for a specified period.

2. **Establishes the requirements to retain the intrastate medical waiver in either physical or digital form in the driver’s qualification file.**

Proposed Rule Changes

WAC 480-70 (Solid Waste)

WAC 480-70-181

1. Amends language regarding the acceptance for solid waste collection companies to use surplus lines insurance:

The insurance policy must be written by an insurance company authorized to write insurance in the state of Washington or by an unauthorized insurer providing surplus lines coverage subject to the provisions of RCW 48.15.040.

2. Amends the gross vehicle weight rating threshold of where the combined single limit (CSL) coverages apply for consistency with federal requirements as follows:
3. \$300,000 CSL was changed from “less than 10,000 pounds” to “less than 10,001 pounds.”
4. \$750,000 CSL was changed from “10,000 pounds or more” to “10,001 pounds or more.”
5. Reformats language related to values for ease of comprehension to clarify the meaning of the rules without changing the effect of the rule. For example, “thirty days” was changed to “30 days.”

WAC 480-70-201

1. Adds language to the vehicle and driver safety requirements to create consistency amongst industries and clarify that solid waste collection companies must make vehicles available for inspection by commission representatives at any time upon request.
2. Adds language for consistency amongst industries related to Washington state requirements to have motor vehicles equipped with fenders, covers, mud flaps, or splash aprons as follows:

All motor vehicles must be equipped with fenders, covers, mud flaps, or splash aprons which effectively reduce the spray of splash of water from the road. All such devices must be as wide as the tires on which they are mounted and must extend from the top of the tires down to at least the center of the axle.

3. Adds language for consistency amongst industries related to the UTC’s authority to place drivers and vehicles out-of-service when safety defects meet the North American Uniform Out-of-Service Criteria.

WAC 480-70-203

1. **Creates a new section titled “Intrastate medical waivers,” to allow solid waste collection companies to use commercially licensed drivers who are not physically qualified per the federal regulations but have obtained an intrastate medical waiver from the Department of Licensing (DOL).**

Closely parallels the passenger safety rules by creating a process for non-commercially licensed drivers who are not physically qualified per the federal regulations to operate motor vehicles in intrastate commerce, following a doctor’s statement that the driver’s condition is likely to remain stable for a specified period.

2. **Establishes the requirements to retain the intrastate medical waiver in either physical or digital form in the driver’s qualification file.**

WAC 480-70-206

1. **Adds an exception to the motor vehicle identification requirements to allow for temporary markings as follows:**

Exception: Companies may use temporary markings on vehicles when operated under a lease agreement with a term of 30 days or less.

WAC 480-70-211

1. **Adds language to vehicle leasing requirements to allow for either a physical or digital copy of leasing documents.**

2. **Amends the illustration of motor vehicle lease form to include:**

Acceptance of digital copies

3. **Revision from “Vehicle Serial Number” to “Vehicle Identification Number”**